

HOUSE BUSINESS AND INDUSTRY COMMITTEE SUBSTITUTE FOR
HOUSE BILL 864

47TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2006

AN ACT

RELATING TO REGULATION OF WAGERING; TRANSFERRING REGULATORY
AUTHORITY FOR PARI-MUTUEL WAGERING, CERTAIN LICENSING AUTHORITY
AND OTHER ADMINISTRATIVE AND FINANCIAL OVERSIGHT DUTIES TO THE
GAMING CONTROL BOARD; RECONCILING MULTIPLE AMENDMENTS TO THE
SAME SECTION OF LAW IN LAWS 1989; AMENDING, REPEALING AND
ENACTING SECTIONS OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 60-1-1 NMSA 1978 (being Laws 1933,
Chapter 55, Section 1, as amended) is amended to read:

"60-1-1. CONDUCTING A RACE WITHOUT LICENSE PROHIBITED.--
It is unlawful for any person [~~firm, association or~~
~~corporation~~] to hold public horse races or race [~~meetings~~
meets] for profit or gain in any manner unless [~~a license~~
~~therefor has first been obtained from the racing commission as~~

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underscored material = new
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1 ~~provided in the Horse Racing Act]~~ the person is licensed as a
2 racetrack gaming operator by the board pursuant to the Gaming
3 Control Act."

4 Section 2. A new section of the Horse Racing Act, Section
5 60-1-1.1 NMSA 1978, is enacted to read:

6 "60-1-1.1. [NEW MATERIAL] DEFINITIONS.--As used in the
7 Horse Racing Act:

8 A. "board" means the gaming control board created
9 in the Gaming Control Act;

10 B. "commission" means the state racing commission;

11 C. "concessionaire" means a person who has entered
12 into a contract with the commission to operate a concession on
13 the racing grounds of a racetrack gaming operator licensee;

14 D. "gaming employee":

15 (1) means a person who is connected directly
16 with:

17 (a) a gaming activity; or

18 (b) a horse racetrack performing
19 accounting, administration or management, cash handling, pari-
20 mutuel wagering operations, security and simulcasting
21 operations; and

22 (2) does not include:

23 (a) bartenders, cocktail servers or
24 other persons engaged solely in preparing or serving food or
25 beverages;

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- 1 (b) secretarial or janitorial personnel;
- 2 (c) stage, sound and light technicians;
- 3 (d) a horseman's bookkeeper; or
- 4 (e) other nongaming personnel;

5 E. "horse" includes a mule;

6 F. "horse race" means a competition among horses on
7 a predetermined course in which the horse completing the course
8 in the least amount of time generally wins;

9 G. "horse racetrack" means a place where horse
10 races are conducted;

11 H. "horse racing activity" means a horse race or
12 any activity or service provided at a horse race, that if
13 conducted in compliance with the Horse Racing Act or Gaming
14 Control Act or rules adopted pursuant to those acts, requires a
15 license or work permit;

16 I. "licensee" means a person licensed by the
17 commission who is not a gaming employee;

18 J. "pari-mutuel wagering" means a system of
19 wagering in which bets on a live or simulcasted horse race are
20 placed in a common pool and then paid, less a management fee
21 and taxes, to those holding winning tickets;

22 K. "permittee" means a person who has been issued a
23 work permit by the commission;

24 L. "race meet" means a period of horse racing
25 authorized by the commission in which live horse races are

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1 conducted on the racing grounds of a racetrack gaming operator
2 licensee;

3 M. "racehorse" means a horse bred and trained to
4 compete in horse races;

5 N. "racing grounds" means the area of a racetrack
6 gaming operator licensee's premises used for the purpose of
7 conducting horse races and all activities ancillary to the
8 conduct of horse races, including the track, horse barns and
9 stalls, jockey's quarters and horse training areas;

10 O. "racetrack employee" means a person issued a
11 work permit or license by the commission, who is not a gaming
12 employee and is not licensed by the board;

13 P. "racetrack gaming operator licensee" means a
14 person licensed pursuant to the Gaming Control Act by the board
15 to conduct gaming and horse races on the licensee's premises;
16 and

17 Q. "simulcast" means a live audio-visual broadcast
18 of a horse race being run at a horse racetrack other than the
19 horse racetrack at which the broadcast is being received for
20 viewing pursuant to a simulcasting contract."

21 Section 3. Section 60-1-3 NMSA 1978 (being Laws 1933,
22 Chapter 55, Section 2, as amended by Laws 1989, Chapter 99,
23 Section 1 and also by Laws 1989, Chapter 377, Section 1) is
24 amended to read:

25 "60-1-3. APPLICATION FOR LICENSES--STATE RACING

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1 COMMISSION CREATED--MEMBERS--TERMS OF OFFICE--VACANCIES--POWERS
2 AND DUTIES.--

3 ~~[A. Any person, firm, association or corporation~~
4 ~~desiring to hold a horse race or to engage in horse race~~
5 ~~meetings shall apply to the state racing commission for a~~
6 ~~license.~~

7 ~~B. There is created]~~ A. The "state racing
8 commission" is created and is administratively attached to the
9 tourism department. The state racing commission shall consist
10 of five members, no more than three of whom shall be members of
11 the same political party. They shall be appointed by the
12 governor, and no less than three of them shall be practical
13 breeders of racehorses within the state. Each member shall be
14 an actual resident of New Mexico and of ~~[such]~~ good character
15 and reputation ~~[as to promote]~~ that public confidence in the
16 administration of racing affairs is promoted in the state.

17 ~~[C.]~~ B. The term of office of each member of the
18 ~~[state racing]~~ commission shall be six years from ~~[his]~~ the
19 member's appointment, and ~~[he]~~ the member shall serve until
20 ~~[his]~~ a successor is appointed and qualified. In case of ~~[any]~~
21 a vacancy in the membership of the commission, the governor
22 shall fill the vacancy by appointment for the unexpired term.

23 ~~[D.]~~ C. No person shall be eligible for appointment
24 as a member of the ~~[state racing]~~ commission who is an officer,
25 official or director in ~~[any]~~ an association or corporation

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1 conducting racing within the state.

2 ~~[E.]~~ D. During ~~[his]~~ the member's term of office,
3 ~~[no]~~ a member of the ~~[state racing]~~ commission shall not be
4 permitted to participate in ~~[any]~~ horse races or ~~[meetings]~~
5 race meets as an owner or trainer.

6 ~~[F.]~~ E. Members of the ~~[state racing]~~ commission
7 shall receive no salary, but each member of the commission
8 shall receive per diem and mileage in accordance with the Per
9 Diem and Mileage Act. The commission may appoint ~~[a secretary]~~
10 an executive director and fix ~~[his]~~ the executive director's
11 duties and compensation.

12 ~~[G.]~~ F. The ~~[state racing]~~ commission ~~[has the~~
13 ~~power to]~~ may:

14 (1) grant, refuse and revoke licenses for
15 horse racetrack employees or for horseracing activities, but
16 not for people or activities licensed by the board pursuant to
17 the Gaming Control Act;

18 (2) make rules ~~[and regulations for the~~
19 ~~holding, conducting and operating of]~~ necessary to conduct all
20 race meets and horse races held in the state, ~~[and to]~~ fix and
21 set racing dates and approve horseraces to be simulcasted from
22 within the state;

23 (3) make an annual report to the governor of
24 its administration of the racing laws;

25 (4) require of each applicant for a license

1 the full name of the person, association or corporation
 2 applying and, if the applicant is a corporation or an
 3 association, the name of the state in which incorporated, the
 4 nationality and residence of the members of the association and
 5 the names of the stockholders and directors of the corporation;

6 ~~[(5) require of an applicant for a license the~~
 7 ~~exact location where it is desired to conduct or hold a race or~~
 8 ~~race meeting, whether or not the racetrack or plant is owned or~~
 9 ~~leased and, if leased, the name and residence of the fee owner~~
 10 ~~or, if the owner is a corporation, the names of the directors~~
 11 ~~and stockholders, a statement of the assets and liabilities of~~
 12 ~~the person, association or corporation making the application,~~
 13 ~~the kind of racing to be conducted and the period desired and~~
 14 ~~such other information as the commission may require;~~

15 ~~(6)]~~ (5) require on each application a
 16 statement under oath that the information contained in the
 17 application is true;

18 ~~[(7) personally or by agents and~~
 19 ~~representatives supervise and check the making of pari-mutuel~~
 20 ~~pools and the distribution from those pools;~~

21 ~~(8) cause the various places where race meets~~
 22 ~~are held to be visited and inspected at reasonable intervals;~~

23 ~~(9) make rules governing, restricting or~~
 24 ~~regulating bids on leases;~~

25 ~~(10)]~~ (6) approve simulcasting interstate

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1 common pool contracts and scheduling of all simulcasted races
2 broadcasted within the state;

3 (7) regulate rates charged by the licensee for
4 admission to races or for the performance of [any] a service or
5 the sale of [any] an article on the premises of the racetrack
6 gaming operator licensee;

7 [~~(11)~~] (8) approve all proposed extensions,
8 additions or improvements to the buildings, stables or tracks
9 upon property owned or leased by a licensee and require the
10 removal of any employee or official employed by the licensee;

11 [~~(12)~~] ~~completely supervise and control the~~
12 ~~pari-mutuel machines and equipment at all races held or~~
13 ~~operated by the state or any state agency or commission;~~

14 (13) ~~approve all contracts and agreements for~~
15 ~~the payment of money and all salaries, fees and compensations~~
16 ~~by any licensee;~~

17 (14)] (9) regulate the size of the purse,
18 stake or [reward] award to be offered for the conducting of
19 [any] a horse race;

20 [~~(15)~~] (10) exclude or compel the exclusion
21 of, from all [~~racecourses, any~~] racing grounds, a person whom
22 the commission deems detrimental to the best interests of
23 racing or [any] a person who willfully violates the racing laws
24 or [any] a rule [~~regulation~~] or order of the commission or
25 [any] a law of the United States or of [~~this~~] the state;

1 ~~[(16)]~~ (11) compel the production of all
 2 documents showing the receipts and disbursements of ~~[any]~~ a
 3 licensee; ~~[and]~~

4 (12) determine the manner in which ~~[such]~~
 5 financial records of a licensee shall be kept;

6 ~~[(17)]~~ ~~investigate the operations of any~~
 7 ~~licensee, and the commission has authority to place attendants~~
 8 ~~and such other persons as may be deemed necessary in the~~
 9 ~~offices, on the tracks or in places of business of any licensee~~
 10 ~~for the purpose of satisfying itself that the rules and~~
 11 ~~regulations are strictly complied with; and~~

12 ~~(18)]~~ (13) employ staff as peace officers for
 13 the purpose of conducting investigations and for enforcing
 14 rules ~~[and regulations]~~ of the ~~[racing]~~ commission and the laws
 15 of the state ~~[and to obtain documents and information from~~
 16 ~~other agencies in order to assist the racing commission].~~

17 Staff employed as peace officers shall be required to
 18 satisfactorily complete a basic law enforcement training
 19 program, but such peace officers shall not carry firearms or
 20 other deadly weapons while on duty; and

21 (14) visit and inspect the racing grounds of
 22 each horse racetrack in the state where horse races are
 23 conducted.

24 [H.] G. The ~~[state racing]~~ commission shall
 25 publicly state its reasons for refusing an application for a

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1 license. ~~[The reasons shall be included in the minute book of~~
2 ~~the commission, and the minute book shall be subject to public~~
3 ~~inspection at all reasonable times.~~

4 ~~F.] H.~~ The ~~[state racing]~~ commission ~~[has the power~~
5 ~~to]~~ may summon witnesses, books, papers, documents or tangible
6 things and ~~[to]~~ administer oaths for the ~~[effectual]~~ effective
7 discharge of the commission's duties. The commission may
8 appoint a hearing officer to conduct ~~[any]~~ a hearing to adopt
9 rules or for any purpose required by the Horse Racing Act or
10 any rule ~~[or regulation promulgated]~~ adopted pursuant to that
11 act.

12 I. The commission shall work cooperatively with the
13 board to develop rules and procedures to exercise the following
14 powers and duties:

15 (1) approve all contracts and agreements for
16 the payment of money and all salaries, fees and compensation
17 pertaining to the operation of the horse racetrack by a
18 racetrack gaming operator licensee;

19 (2) exclude or compel the exclusion from any
20 or all horse racetracks in the state of a person whose behavior
21 is found to be detrimental to the best interests of horse
22 racing, as defined by the board, or a person who willfully
23 violates the racing laws or rules of this state or another
24 state;

25 (3) observe and investigate the operations of

1 licensees or permittees to ensure that the racing laws and
 2 rules of New Mexico and other relevant jurisdictions are
 3 complied with; and

4 (4) approve or reject an applicant for an
 5 original racetrack gaming operator's license or approve the
 6 continued operation of a horse racetrack by certifying to the
 7 board that the horse racetrack on the premises of a racetrack
 8 gaming operator licensee has complied with the requirements of
 9 the commission."

10 Section 4. Section 60-1-4 NMSA 1978 (being Laws 1955,
 11 Chapter 87, Section 2) is amended to read:

12 "60-1-4. APPOINTMENT OF MEMBERS OF COMMISSION--The five
 13 [~~racing commissioners~~] members of the commission shall be
 14 appointed at large from the state by the governor [~~and~~] with
 15 the advice and consent of the senate."

16 Section 5. Section 60-1-5 NMSA 1978 (being Laws 1973,
 17 Chapter 323, Section 3, as amended) is amended to read:

18 "60-1-5. LICENSES--[QUALIFICATIONS] WORK PERMITS--
 19 BACKGROUND CHECKS--COMMISSION DUTIES---

20 [~~A. All persons engaged in racing, or employed on a~~
 21 ~~licensee's premises by those engaged in racing, or operating a~~
 22 ~~horse racing meeting, and persons operating concessions for or~~
 23 ~~under authority of any licensee or employed by the~~
 24 ~~concessionaire shall be licensed by the state racing commission~~
 25 ~~after a background check has been conducted. The commission~~

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 [bracketed material] = delete

1 ~~shall develop policies and procedures for conducting the~~
2 ~~background checks. The policies and procedures shall:~~

3 ~~(1) require two fingerprint cards to be~~
4 ~~submitted for each applicant for a license or license renewal,~~
5 ~~one card to be transmitted to the department of public safety~~
6 ~~for a statewide check and the other to be transmitted to the~~
7 ~~federal bureau of investigation for a nationwide check;~~

8 ~~(2) if an application for license or license~~
9 ~~renewal is denied, provide the applicant with the ability to~~
10 ~~inspect or challenge the validity of the record upon which the~~
11 ~~denial was based;~~

12 ~~(3) provide that arrest record information,~~
13 ~~received from the department of public safety or the federal~~
14 ~~bureau of investigation, is privileged and shall not be~~
15 ~~disclosed to persons not directly involved in the decision~~
16 ~~affecting the specific applicant or employee; and~~

17 ~~(4) require the applicant to pay the cost of~~
18 ~~the background check.~~

19 ~~B. Racetracks shall be licensed each calendar year.~~

20 ~~C. The state racing commission may provide by~~
21 ~~regulation for the issuance of licenses for terms not to exceed~~
22 ~~five years for horse owners, trainers, jockeys and their~~
23 ~~employees; veterinarians; and employees of a racetrack. Fees~~
24 ~~for licenses under this subsection, not to exceed one hundred~~
25 ~~dollars (\$100), shall be set by regulation of the commission.]~~

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1 A. The commission may issue licenses or work
2 permits to authorize the presence on the racing grounds during
3 a race meet of persons who are necessary to the conduct of a
4 race meet, including racetrack employees, persons engaged in
5 racing, concessionaires, persons employed by concessionaires or
6 other persons who are engaged in necessary activities on the
7 racing grounds but are not licensed by the board.

8 B. The commission shall adopt rules specifying what
9 categories of service providers, contractors or employees shall
10 be issued licenses and what categories of service providers,
11 contractors or employees shall be issued work permits.

12 C. The board shall conduct all background checks on
13 behalf of the commission and shall forward the findings to the
14 commission for a final decision on granting the person a work
15 permit or license. Background checks shall be performed
16 pursuant to the procedures adopted by the board regarding
17 background checks.

18 D. The commission may adopt procedures that are
19 complementary to and comply with the background check
20 requirements of the board, including:

21 (1) providing a means to transmit the board's
22 findings and recommendations to the commission;

23 (2) assessing a fee, not to exceed the actual
24 cost for the background check, to the person applying for a
25 license or work permit; and

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1 (3) maintaining confidentiality of
2 information, documents and communications provided to the
3 commission by the board; provided, however, that if
4 information, documents or communications that are provided to
5 the commission by the board are also obtained by the commission
6 from another source, the information, documents or
7 communications from that other source may be made public.

8 E. All licenses and work permits issued by the
9 commission shall be renewed on an annual basis unless otherwise
10 specified by rule of the commission. No license shall be valid
11 for more than five years without renewal.

12 F. The commission shall set license and work permit
13 fees by rule, provided that no license fee or work permit fee
14 exceeds one hundred dollars (\$100) annually and work permit
15 fees are less than license fees.

16 ~~[D.]~~ G. The ~~[state racing]~~ commission shall not
17 issue or renew a license or work permit and shall revoke or
18 suspend ~~[any]~~ a license or work permit issued pursuant to this
19 section if, after due consideration for the proper protection
20 of public health, safety, morals, good order and the general
21 welfare of the inhabitants of this state, it finds that the
22 issuance of the license or work permit or the holding of the
23 license or work permit is inconsistent with the public
24 interest. The burden of proving ~~[his]~~ the qualifications to
25 receive and hold a license ~~[under]~~ or work permit issued

1 pursuant to this section shall be at all times on the
 2 applicant, ~~[or]~~ licensee or permittee. The ~~[state racing]~~
 3 commission shall establish by ~~[regulation such]~~ rule the
 4 qualifications for licenses to be issued pursuant to this
 5 section. ~~[as it deems in the public interest.~~

6 ~~E. Any]~~ H. A person who is addicted to or uses
 7 narcotic drugs or who has been convicted of a violation of any
 8 federal or state narcotics law shall not be licensed ~~[on any~~
 9 ~~New Mexico racetrack]~~ or issued a work permit by the commission
 10 to work on the racing grounds of a gaming operator licensee,
 11 unless sufficient evidence of rehabilitation is presented to
 12 the ~~[state racing]~~ commission.

13 ~~[F.] I.~~ If the ~~[state racing]~~ commission finds that
 14 ~~[any]~~ a person has ~~[done any of]~~ participated in one or more of
 15 the following acts, the person shall not be licensed or issued
 16 a work permit by the commission for a period of five years from
 17 the date of the finding that the person, for the purpose of
 18 stimulating or depressing a horse or affecting its speed or
 19 stamina in a race or workout:

20 (1) administered, attempted to administer or
 21 conspired with others to administer to ~~[any]~~ a horse, in or
 22 prior to a horse race, ~~[any dope]~~ a drug, chemical agent,
 23 stimulant or depressant, either internally, externally or
 24 hypodermically;

25 (2) attempted to use, used or conspired with

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1 others to use in [~~any~~] a horse race [~~any~~] an electrical or
2 mechanical buzzer, goad, device, implement or instrument,
3 [~~excepting only the~~] with the exception of an ordinary whip
4 [~~and~~] or spur, or acted to sponge the nostrils or windpipe of a
5 racehorse; or

6 (3) used [~~any~~] another method, whether
7 injurious or [~~otherwise, for the purpose of stimulating or~~
8 ~~depressing~~] not, to stimulate or depress a horse or [~~affecting~~]
9 affect its speed or stamina in a race or workout.

10 [~~G. The validity of any license issued by the state~~
11 ~~racing commission shall be conditioned upon the licensee not~~
12 ~~engaging in racing, operating a horse racing meeting or~~
13 ~~participating as an employee or concessionaire at any racetrack~~
14 ~~in New Mexico operating or permitting to be operated an~~
15 ~~organized wagering system not licensed by the commission. Any~~
16 ~~licensee not complying with that condition shall, after~~
17 ~~reasonable notice and hearing, have his license revoked, and~~
18 ~~the license shall not be reissued until the expiration of one~~
19 ~~year from the date of revocation.]~~

20 J. The commission shall:

21 (1) deny a license or work permit to an
22 applicant if the commission verifies that the applicant has
23 participated in or is participating in horse racing activities
24 conducted in the state in violation of the provisions of the
25 Horse Racing Act or rules adopted pursuant to that act; or

1 (2) revoke or deny a renewal for the license
 2 or work permit of a licensee or permittee if the commission
 3 verifies that the licensee or permittee has participated in or
 4 is participating in horse racing activities conducted in the
 5 state in violation of the provisions of the Horse Racing Act or
 6 rules adopted pursuant to that act.

7 K. The commission shall provide due process and an
 8 opportunity for an applicant, licensee or permittee to present
 9 exculpatory evidence prior to having that applicant's,
 10 licensee's or permittee's license or work permit denied or
 11 revoked. Appeals of decisions made by the commission pursuant
 12 to a hearing before a hearing officer shall be heard and
 13 decided by the full commission.

14 L. A license or work permit that is revoked or
 15 denied renewal by the commission pursuant to Subsection J of
 16 this section shall not be reissued for one year from the date
 17 of revocation or denial. An applicant who is denied a license
 18 or work permit pursuant to Subsection J of this section shall
 19 not reapply for the license or work permit for one year from
 20 the date of the denial."

21 Section 6. Section 60-1-11 NMSA 1978 (being Laws 1933,
 22 Chapter 55, Section 7, as amended) is amended to read:

23 "60-1-11. RULES ~~[AND REGULATIONS]~~--LICENSURE--
 24 REPRESENTATIVES OF COMMISSION--~~[SPECIAL POLICEMEN]~~ REVOCATION
 25 ~~[OR CANCELLATION]~~ OF LICENSES OR WORK PERMITS--PENALTIES.--

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1 A. The [~~raeing~~] commission shall adopt reasonable
2 rules [~~and regulations in writing to achieve the objectives~~
3 ~~that all horse races be~~] necessary to assure that all horse
4 races are conducted with fairness and that the participants and
5 the patrons [~~be~~] are protected against [~~all~~] wrongful, unlawful
6 or unfair conduct and practices [~~of every kind on the grounds~~
7 ~~where the races are held~~]. The commission shall [~~give~~
8 ~~reasonable public notice of the promulgation of its~~
9 ~~regulations~~] promulgate rules pursuant to the Administrative
10 Procedures Act.

11 ~~B. Every license issued by the commission shall~~
12 ~~require the applicant to abide by the rules and regulations~~
13 ~~promulgated by the commission, and the holder of each license~~
14 ~~shall post printed copies of the rules and regulations in~~
15 ~~conspicuous places upon the grounds where the races are being~~
16 ~~conducted and shall maintain them during the period when races~~
17 ~~are held.~~

18 ~~G.]~~ B. The [~~raeing~~] commission shall appoint a
19 representative [~~or representatives~~] to be personally present at
20 horse races to oversee them, to require strict observance of
21 rules [~~and regulations~~] adopted by the commission, to avoid
22 violations [~~thereof~~] of those rules and to [~~protect against the~~
23 ~~want of integrity on the part of the licensee or his~~
24 ~~representatives in conducting the races~~] prevent violations of
25 the Horse Racing Act.

underscored material = new
[bracketed material] = delete

1 ~~[D.]~~ C. For the purpose of preserving order and
 2 preventing violations of the Horse Racing Act and rules ~~[and~~
 3 ~~regulations promulgated]~~ adopted pursuant ~~[thereto]~~ to that
 4 act, a ~~[track]~~ horse racetrack licensed to conduct a ~~[horse]~~
 5 race meet, with the prior approval of the commission, shall
 6 appoint special ~~[policemen]~~ police officers, who shall have the
 7 same powers and immunities within and around the grounds of the
 8 ~~[track]~~ horse racetrack as are vested in county sheriffs to
 9 protect the property within ~~[such]~~ the racing grounds, to eject
 10 or arrest all persons within the racing grounds who are guilty
 11 of disorderly conduct or who ~~[shall]~~ neglect to pay fees or
 12 neglect to observe the rules of the commission. The
 13 appointment of ~~[any such person]~~ special police officers shall
 14 not be deemed to supersede the authority of peace officers
 15 within the grounds of the racetrack.

16 ~~[E.]~~ D. In the event of ~~[any]~~ a violation by a
 17 ~~[license holder]~~ licensee or permittee of the provisions of the
 18 Horse Racing Act or of ~~[any of]~~ the rules ~~[and regulations~~
 19 ~~promulgated]~~ adopted by the ~~[racing]~~ commission, the license or
 20 work permit of the offending ~~[license holder]~~ licensee or
 21 permittee may be ~~[cancelled or]~~ revoked at any time by the
 22 commission, provided ~~[however]~~ that the licensee or permittee
 23 shall have reasonable notice and opportunity to be heard before
 24 ~~[cancellation or]~~ revocation, and provided further that the
 25 ~~[cancellation or]~~ revocation of ~~[any]~~ a license or work permit

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1 shall not ~~[relieve the licensee from]~~ prevent the prosecution
2 of the licensee or permittee for ~~[any of]~~ the violations or
3 ~~[from payment]~~ the assessment of fines and penalties.

4 ~~[F.]~~ E. The commission ~~[is authorized to]~~ may
5 impose civil penalties upon ~~[any]~~ a licensee or permittee for a
6 violation of the Horse Racing Act or ~~[any rules or regulations~~
7 ~~promulgated]~~ a rule adopted pursuant ~~[thereto not exceeding]~~ to
8 that act. The fines shall not exceed five thousand dollars
9 (\$5,000) for each violation ~~[which penalties]~~ and shall be paid
10 into the current school fund.

11 ~~[G. The commission shall not approve the hiring of~~
12 ~~any personnel or any special policemen pursuant to this section~~
13 ~~unless it finds that the system of security services to be~~
14 ~~provided will be at least equal to the services which would be~~
15 ~~provided by the thoroughbred racing protective bureau of the~~
16 ~~thoroughbred racing association of the United States under~~
17 ~~similar conditions.]"~~

18 Section 7. Section 60-1-12 NMSA 1978 (being Laws 1973,
19 Chapter 323, Section 7, as amended) is amended to read:

20 "60-1-12. STEWARDS--POWERS AND DUTIES--REVIEW.--There
21 shall be three stewards, licensed and employed by the ~~[state~~
22 ~~racing]~~ commission, to supervise each horse race ~~[meeting]~~
23 meet. One of the stewards shall be designated the presiding
24 official steward of the race meet. Stewards, other than the
25 presiding official steward, shall be employed subject to the

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1 approval of the licensee. All stewards shall be licensed or
 2 certified by a nationally recognized horse racing organization.
 3 Stewards shall exercise those powers and duties prescribed by
 4 the rules [~~and regulations~~] of the commission. [~~Any~~] A
 5 decision or action of the stewards may be reviewed or
 6 reconsidered by the commission."

7 Section 8. Section 60-1-13 NMSA 1978 (being Laws 1975,
 8 Chapter 189, Section 1) is amended to read:

9 "60-1-13. OFFICIAL STATE RACING CHEMIST--QUALIFICATIONS--
 10 DUTIES.--The [~~racing~~] commission shall designate one or more
 11 "official state racing [~~chemist~~] chemists". An official state
 12 racing chemist shall hold a doctorate degree in chemistry or a
 13 related field and shall be knowledgeable and experienced in the
 14 techniques used for testing the blood, urine and saliva of
 15 horses for drugs, [~~dope~~] chemical agents, stimulants and
 16 depressants. [~~He~~] The official state racing chemist may be
 17 either an employee of a private laboratory located in New
 18 Mexico or an employee of an agency of the state. [~~of New~~
 19 ~~Mexico~~ ~~He~~] The chemist shall exercise [~~those~~] the duties [~~as~~]
 20 prescribed by the rules [~~and regulations~~] of the commission."

21 Section 9. Section 60-1-17 NMSA 1978 (being Laws 1977,
 22 Chapter 161, Section 2, as amended) is amended to read:

23 "60-1-17. BREEDERS' AWARDS.--

24 A. To promote and improve the quality of racehorse
 25 breeding in New Mexico, the [~~track~~] horse racetrack shall pay a
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1 sum of money equal to ten percent of the first money of each
2 purse won in New Mexico by a [~~horse~~] racehorse registered with
3 the New Mexico horse breeders' association or the New Mexico
4 Appaloosa racing association as New Mexico bred, except stake-
5 race purses, in which case an amount equal to ten percent of
6 the added money shall be paid.

7 B. The sum of money provided for in Subsection A of
8 this section shall be paid weekly to the owner of the dam of
9 the [~~animal~~] horse at the time the [~~animal~~] horse was foaled
10 upon certification of the [~~state racing~~] commission and either
11 the New Mexico horse breeders' association or the New Mexico
12 Appaloosa racing association, depending on the registry of the
13 [~~horse~~] racehorse.

14 C. In addition to the money distributed pursuant to
15 Subsection A of this section, the New Mexico horse breeders'
16 association shall distribute the money collected by the
17 association pursuant to [~~Subsections C and D of~~] Section
18 [~~60-1-10 NMSA 1978~~] 60-2E-47.7 NMSA 1978 in the following
19 manner and in accordance with the rules [~~and regulations~~
20 ~~promulgated~~] adopted by the [~~state racing~~] commission:

21 (1) forty-five percent of the money to the
22 owners of the dams of the first place winners at the time the
23 winners were foaled;

24 (2) seven percent of the money to the owners
25 of the studs that sired the first place winners at the time the

1 winners were foaled;

2 (3) no more than eight percent of the money to
3 be retained by the New Mexico horse breeders' association for
4 the purpose of administering the commission distribution
5 program; and

6 (4) the remaining money to be divided among
7 the first, second and third place finishers during each New
8 Mexico [~~commercial~~] race meet [~~which finishers~~] that are
9 registered as New Mexico bred with the New Mexico horse
10 breeders' association.

11 D. The New Mexico horse breeders' association shall
12 file a fiduciary bond with the [~~state racing~~] commission in a
13 face amount equal to the total money distributed during the
14 previous calendar year pursuant to Subsection C of this
15 section. [~~which~~] The bond shall be executed by a surety
16 company authorized to do business in New Mexico; provided that
17 the fiduciary bond shall be in an amount not less than two
18 million dollars (\$2,000,000).

19 E. In the event that money to be distributed to the
20 New Mexico horse breeders' association or the New Mexico
21 Appaloosa racing association pursuant to this section cannot be
22 properly administered or distributed to the members of the
23 association by one of those associations, the commission shall
24 receive the distribution for the New Mexico horse breeders'
25 association or the New Mexico Appaloosa racing association due

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1 pursuant to this section and shall administer and distribute
2 the money as required. If the commission is required to
3 administer or distribute money on behalf of the New Mexico
4 horse breeders' association or the New Mexico Appaloosa racing
5 association, the maximum percentage of funds required to be
6 distributed pursuant to this section shall be distributed to
7 the commission and shall be paid by the commission to the New
8 Mexico horse breeders' association or the New Mexico Appaloosa
9 racing association as a fee to obtain the certification of the
10 registry of the dam and stud of New Mexico bred horses.

11 F. In the event that money to be distributed to the
12 New Mexico horsemen's association pursuant to this section
13 cannot be properly administered or distributed to the members
14 of the association by that association, the commission shall
15 receive, administer and distribute the money to the horsemen as
16 required by Section 60-2E-47.7 NMSA 1978. If the commission
17 is required to administer or distribute funds to horsemen, the
18 maximum percentage of funds to be distributed pursuant to this
19 section shall be distributed to the commission to administer
20 and distribute."

21 Section 10. Section 60-1-20 NMSA 1978 (being Laws 1947,
22 Chapter 94, Section 1) is amended to read:

23 "60-1-20. INFLUENCING RACE RESULTS--PENALTY.--Any person
24 influencing or attempting to influence in any manner by offer
25 of money, thing of value, future benefit, favor [~~preferment~~] or

1 preferential treatment or by [~~any~~] a form of pressure or
 2 threat, or seeking or having an agreement or understanding or
 3 [~~conniving~~] conspiring with [~~any~~] an owner, jockey, groom or
 4 other person associated with or [~~interested~~] having an interest
 5 in [~~any~~] a stable of horses, a horse or [~~race~~] a horserace, in
 6 which [~~any such~~] a horse participates, to predetermine the
 7 result of [~~any such race shall be deemed~~] a horserace is guilty
 8 of a felony and upon conviction [~~thereof~~] shall be imprisoned
 9 in the state penitentiary for not less than one [~~(1)~~] year or
 10 more than two [~~(2)~~] years or fined not less than one thousand
 11 [~~(\$1,000.00)~~] dollars (\$1,000) or more than five thousand
 12 [~~(\$5,000.00)~~] dollars (\$5,000), or [~~penalized by~~] both [~~such~~
 13 ~~imprisonment and fine, in the discretion of the Court~~]."

14 Section 11. Section 60-1-21 NMSA 1978 (being Laws 1947,
 15 Chapter 94, Section 2) is amended to read:

16 "60-1-21. AFFECTING SPEED OR STAMINA OF HORSE--PENALTY.--

17 Any person:

18 A. administering, [~~or~~] attempting to administer or
 19 conspiring with others to administer to [~~any~~] a horse, in or
 20 prior to a race, [~~or prior thereto, any dope~~] a drug, chemical
 21 agent, stimulant or depressant, either internally, externally
 22 or hypodermically; [~~or~~]

23 B. attempting to use, using or conspiring with
 24 others to use in [~~any~~] a race [~~any~~] an electrical or mechanical
 25 buzzer, goad, device, implement or instrument, excepting only

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1 [the] an ordinary whip and spur; [~~or the act of~~]

2 C. sponging the nostrils or windpipe of a
3 racehorse; [~~or~~]

4 D. using [~~any~~] a method, whether injurious or
5 [~~otherwise~~] not, for the purpose of stimulating or depressing
6 [~~such~~] a horse or affecting its speed or stamina in a race or
7 workout; [~~and any person~~] or

8 E. within the confines of the track, stands,
9 stables, sheds or other places where horses are kept [~~which~~]
10 that are eligible to race [~~over~~] on the racetrack of [~~any~~
11 ~~racetrack association or~~] a racetrack gaming operator licensee,
12 having [~~within his~~] in the person's possession with intent to
13 use, sell, give away, exchange or deliver to another, [~~and~~
14 ~~possession shall be prima facie evidence of intent, any such~~
15 ~~dope~~] a drug, chemical agent, stimulant, depressant; or an
16 electrical or mechanical buzzer, goad, device, implement,
17 instrument or applicator, [~~excepting only the~~] not including an
18 ordinary whip and spur, [~~which could~~] that may be used for the
19 purpose of affecting the speed or stamina of a horse, [~~shall be~~
20 ~~deemed~~] is guilty of a misdemeanor [~~and~~]. Each offense shall
21 be punished by a fine of not less than five hundred [~~(\$500.00)~~]
22 dollars (\$500) and not more than one thousand [~~(\$1,000.00)~~]
23 dollars (\$1,000) or by imprisonment in the county jail for not
24 more than six [~~(6)~~] months, or [~~by~~] both [~~such fine and~~
25 ~~imprisonment~~]."

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underscored material = new
[bracketed material] = delete

1 Section 12. Section 60-1-22 NMSA 1978 (being Laws 1975,
2 Chapter 190, Section 1) is amended to read:

3 "60-1-22. TESTING SPECIMENS--FORWARDING TO THE
4 DEPARTMENT OF HEALTH [~~AND SOCIAL SERVICES DEPARTMENT~~].--The
5 commission shall adopt rules [~~and regulations~~] for the testing
6 of urine and other specimens taken from [~~such~~] racehorses [~~as~~
7 ~~are~~] designated by the commission. Provided that a sufficient
8 amount of specimen is available, each specimen taken from a
9 racehorse shall be divided into two or more portions. One
10 portion shall be tested by the commission or its designated
11 agent in order to detect the presence of [~~any~~] a drug, [~~dope~~]
12 chemical agent, stimulant or depressant. A second portion
13 shall be forwarded by the commission to the scientific
14 laboratory [~~system~~] of the department of health. [~~and social~~
15 ~~services department. After~~] If a questionable, cloudy or
16 positive test result is obtained on the portion tested by the
17 commission or its designated agent [~~and~~] or upon the written
18 request of the president or manager of the New Mexico
19 horsemen's association on forms prepared and approved by the
20 commission, the scientific laboratory [~~system~~] shall transmit
21 the corresponding second portion to the New Mexico horsemen's
22 association. The scientific laboratory [~~system~~] shall keep all
23 other specimens in a safe place in a controlled environment for
24 a period of at least three months [~~and shall, after the~~
25 ~~expiration of at least ten days from the date of receipt,~~

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1 ~~perform random tests on the specimens in order to detect the~~
2 ~~presence of any drug, dope, chemical agent, stimulant or~~
3 ~~depressant. The results of all such tests performed by the~~
4 ~~laboratory under this section shall be transmitted immediately~~
5 ~~by the laboratory to the commission, but they shall have no~~
6 ~~evidentiary value in any hearing before the commission.] The~~
7 ~~commission may contract for quality assurance drug testing~~
8 ~~services from a second laboratory or a national program that~~
9 ~~provides those services.~~"

10 Section 13. Section 60-1-25 NMSA 1978 (being Laws 1991,
11 Chapter 195, Section 6, as amended) is amended to read:

12 "60-1-25. SIMULCASTING.--

13 A. As used in this section, "simulcasting" means a
14 live audio-visual broadcast of an actual horse race at the time
15 it is run.

16 B. The [~~state racing~~] commission may permit
17 simulcasting of live horse races [~~being run at~~] from licensed
18 New Mexico racetracks to racetracks or other locations holding
19 a pari-mutuel or gaming license outside the state, as well as
20 to other licensed New Mexico racetracks, and of live horse
21 races [~~being run at~~] from racetracks outside New Mexico to
22 [~~licensed racetracks~~] racetrack gaming operator licensees in
23 this state.

24 C. Pari-mutuel wagering on simulcasted races shall
25 be prohibited except at licensed New Mexico racetracks on days

1 that ~~[such]~~ horse racetracks have race meets in progress or on
 2 days ~~[that such]~~ during weeks when horse racetracks do not have
 3 race meets in progress but are simulcasting races from another
 4 licensed New Mexico racetrack ~~[provided, however, that]~~.

5 D. Pari-mutuel wagering on simulcasted races shall
 6 only be allowed ~~[at any licensed New Mexico racetrack]~~ by a
 7 racetrack gaming operator licensee within a radius of eighty
 8 miles of any other licensed New Mexico racetrack with race
 9 meets in progress if there is mutual agreement of the two
 10 licensees ~~[and provided further that no licensed New Mexico~~
 11 ~~racetrack]~~.

12 E. A racetrack gaming operator licensee shall not
 13 be allowed to receive broadcasts of simulcast races unless that
 14 racetrack offers at least seventeen days per year of pari-
 15 mutuel wagering on on-track live horse races.

16 F. The commission shall promulgate rules concerning
 17 the simulcasting of racing as provided in this section.

18 ~~[G.]~~ G. All simulcasting of races shall have prior
 19 approval of the ~~[state racing]~~ commission."

20 Section 14. Section 60-1-25.1 NMSA 1978 (being Laws
 21 1991, Chapter 195, Section 4) is amended to read:

22 "60-1-25.1. INTERSTATE COMMON-POOL WAGERING
 23 AUTHORIZED.--

24 A. Subject to the Interstate Horseracing Act, 15
 25 U.S.C.A. Sections 3001 et seq. (1978), the ~~[state racing]~~

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1 commission may permit a licensed New Mexico racetrack to
2 participate in interstate common pools. [~~All provisions of the~~
3 ~~Horse Racing Act that govern pari-mutuel betting apply to pari-~~
4 ~~mutuel betting in interstate common pools except as otherwise~~
5 ~~provided in this section.~~] Pari-mutuel wagering on simulcasted
6 and live horse races shall be conducted pursuant to the
7 provisions of the Gaming Control Act and this section.

8 B. Subject to prior approval of the [~~state racing~~]
9 commission, the following provisions apply when a licensed New
10 Mexico racetrack participates in interstate common pools on a
11 horse race that originates outside of [~~New Mexico~~] the state:

12 (1) the licensee may combine its pari-mutuel
13 pools with comparable pari-mutuel pools at the [~~sending~~
14 ~~racetrack~~] host track and other locations. The types of
15 wagering, takeout, distribution of winnings and rules of racing
16 in effect for pari-mutuel pools at the [~~sending racetrack~~] host
17 track shall govern wagers placed in this state and merged into
18 the interstate common pool. Breakage for interstate common
19 pools shall be calculated in accordance with the rules
20 governing the [~~sending racetrack~~] host track and shall be
21 distributed in a manner agreed upon by the [~~licensed New~~
22 ~~Mexico~~] racetrack gaming operator licensee guest track and the
23 [~~sending racetrack~~] host track;

24 (2) with the concurrence of the [~~sending~~
25 ~~racetrack~~] host track, an interstate common pool that excludes

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1 the [~~sending racetrack~~] host track may be formed among the
2 racetrack gaming operator licensee guest track and other
3 locations outside the state where the [~~sending racetrack~~] host
4 track is located. When [~~such~~] an interstate common pool
5 excluding the host track is formed, the commission may approve
6 types of wagering, takeout, distribution of winnings, rules of
7 racing and calculation of breakage that are different than
8 those that would otherwise be in effect in New Mexico, provided
9 that they are applied consistently to all persons in the
10 interstate common pool and are reported in a timely manner to
11 the board;

12 (3) the racetrack gaming operator licensee may
13 deduct from retainage resulting from an interstate common pool
14 any reasonable fee paid to the person conducting the horse race
15 for the privilege of conducting pari-mutuel wagering on the
16 race and participating in the interstate common pool and for
17 payment of costs incurred to transmit the broadcast of the
18 horse race; and

19 (4) provisions of law or contract governing
20 the distribution of pari-mutuel taxes, breeder or other awards
21 and purses from the takeout of wagers placed in this state
22 shall remain in effect for wagers placed in interstate common
23 pools; provided that if the commission approves an adjustment
24 in the takeout rate, the distribution of the takeout within New
25 Mexico shall be adjusted proportionately to reflect the

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1 adjustment in the takeout rate; and provided further that with
2 the concurrence of the racetrack gaming operator licensee and
3 the organization representing a majority of the breeders,
4 horsemen or other persons entitled to shares of the
5 distribution, and subject to approval of the commission, the
6 respective shares to breeder or other awards or purses may be
7 modified.

8 C. Subject to prior approval of the [~~state racing~~]
9 commission, the following provisions apply when a [~~licensed New~~
10 ~~Mexico~~] racetrack gaming operator licensee participates in
11 interstate common pools on a horse race that originates at the
12 racetrack gaming operator licensee's racetrack:

13 (1) a racetrack gaming operator licensee may
14 permit one or more of its races to be utilized for pari-mutuel
15 wagering at, and may transmit audio-visual signals of races the
16 licensee conducts to, one or more locations outside New Mexico.
17 The licensee may also permit pari-mutuel pools in other
18 locations to be combined with the licensee's comparable pari-
19 mutuel wagering pools or with wagering pools established in
20 other jurisdictions. The commission may modify its rules and
21 adopt separate rules for interstate common pools and their
22 calculation of breakage;

23 (2) daily pari-mutuel excise and daily racing
24 taxes shall not be imposed upon any amounts wagered in an
25 interstate common pool other than upon amounts wagered within

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1 this state;

2 (3) except as otherwise provided in this
3 section, any provisions of law or contract governing the
4 distribution of shares of the takeout as New Mexico pari-mutuel
5 taxes, breeder or other awards and purses shall remain in
6 effect for amounts wagered within this state in interstate
7 common pools, provided that with the concurrence of the
8 racetrack gaming operator licensee and the organization
9 representing a majority of the breeders, horsemen or other
10 persons entitled to shares of the distribution, and subject to
11 approval of the commission, the respective shares to breeder or
12 other awards or purses may be modified; and

13 (4) with respect to the retainage on
14 interstate common pooling received from a guest state by a
15 racetrack gaming operator licensee, the licensee shall allocate
16 to the New Mexico horse breeder's association five percent of
17 the daily retainage. Of the retainage remaining after the
18 allocation to the New Mexico horse ~~[breeder's]~~ breeders'
19 association, fifty percent shall be allocated to race purses
20 and fifty percent shall be retained by the licensee.

21 D. When the laws and rules of the host and guest
22 states permit, an interstate common pool may be established on
23 a regional or other basis between two or more guest states and
24 not include a merger into the host track's pari-mutuel pool, in
25 which case one of the guest tracks shall serve as if it were

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1 the host track for the purposes of calculating the pari-mutuel
2 pool. An interstate common pool may include members located
3 outside the United States. Except as otherwise set forth in
4 the ~~[state racing]~~ commission's rules, participation by a
5 person in a common pool with wagering facilities in one or more
6 other states shall not cause the participating person to be
7 deemed to be doing business in any state other than the state
8 in which that person is physically located.

9 E. The ~~[state racing]~~ commission is authorized to
10 adopt rules ~~[and regulations]~~ necessary ~~[or appropriate]~~ to
11 exercise its powers pursuant to this section.

12 F. For the purposes of this section:

13 (1) "guest state" means the jurisdiction
14 within which a guest track is located;

15 (2) "guest track" means the horse racetrack,
16 off-track wagering facility or other facility in a location
17 other than the state in which the horse race is run that is a
18 member of and subject to an interstate common pool;

19 (3) "host state" means the jurisdiction within
20 which a host track is located;

21 (4) "host track" ~~["sending racetrack" or~~
22 ~~"sending track"]~~ means the horse racetrack from which the horse
23 race is run that is transmitted to members of and is subject to
24 an interstate common pool; and

25 (5) "interstate common pool" means a pari-

1 mutuel pool that combines comparable pari-mutuel pools of one
2 or more locations accepting wagers on a horse race run at the
3 host track for purposes of establishing payoff prices at the
4 pool members' locations. Pool members from more than one state
5 may simultaneously combine pari-mutuel pools into an interstate
6 common pool."

7 Section 15. Section 60-2E-3 NMSA 1978 (being Laws 1997,
8 Chapter 190, Section 5, as amended) is amended to read:

9 "60-2E-3. DEFINITIONS.--As used in the Gaming Control
10 Act:

11 A. "affiliate" means a person who, directly or
12 indirectly through one or more intermediaries, controls, is
13 controlled by or is under common control with a specified
14 person;

15 B. "affiliated company" means a company that:

16 (1) controls, is controlled by or is under
17 common control with a company licensee; and

18 (2) is involved in gaming activities or
19 involved in the ownership of property on which gaming is
20 conducted;

21 C. "applicant" means a person who has applied for a
22 license or for approval of an act or transaction for which
23 approval is required or allowed pursuant to the provisions of
24 the Gaming Control Act;

25 D. "application" means a request for the issuance

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1 of a license or for approval of an act or transaction for which
2 approval is required or allowed pursuant to the provisions of
3 the Gaming Control Act, but "application" does not include a
4 supplemental form or information that may be required with the
5 application;

6 E. "associated equipment" means equipment or a
7 mechanical, electrotechnical or electronic contrivance,
8 component or machine used in connection with gaming activity;

9 F. "board" means the gaming control board;

10 G. "certification" means a notice of approval by
11 the board of a person required to be certified by the board;

12 H. "certified technician" means a person certified
13 by a manufacturer licensee to repair and service gaming
14 devices, but who is prohibited from programming gaming devices;

15 I. "company" means a corporation, partnership,
16 limited partnership, trust, association, joint stock company,
17 joint venture, limited liability company or other form of
18 business organization that is not a natural person; "company"
19 does not mean a nonprofit organization;

20 J. "distributor" means a person who supplies gaming
21 devices to a gaming operator but does not manufacture gaming
22 devices;

23 K. "equity security" means an interest in a company
24 that is evidenced by:

25 (1) voting stock or similar security;

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1 (2) a security convertible into voting stock
2 or similar security, with or without consideration, or a
3 security carrying a warrant or right to subscribe to or
4 purchase voting stock or similar security;

5 (3) a warrant or right to subscribe to or
6 purchase voting stock or similar security; or

7 (4) a security having a direct or indirect
8 participation in the profits of the issuer;

9 L. "executive director" means the chief
10 administrative officer appointed by the board pursuant to
11 Section 60-2E-7 NMSA 1978;

12 M. "finding of suitability" means a certification
13 of approval issued by the board permitting a person to be
14 involved directly or indirectly with a licensee, relating only
15 to the specified involvement for which it is made;

16 N. "game" means an activity in which, upon payment
17 of consideration, a player receives a prize or other thing of
18 value, the award of which is determined by chance even though
19 accompanied by some skill; "game" does not include an activity
20 played in a private residence in which no person makes money
21 for operating the activity except through winnings as a player;

22 O. "gaming" means offering a game for play;

23 P. "gaming activity" means an endeavor associated
24 with the manufacture or distribution of gaming devices or the
25 conduct of gaming;

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1 Q. "gaming device" means associated equipment or a
2 gaming machine and includes a system for processing information
3 that can alter the normal criteria of random selection that
4 affects the operation of a game or determines the outcome of a
5 game;

6 R. "gaming employee":

7 (1) means a person connected directly with:

8 (a) a gaming activity; [~~"gaming~~
9 ~~employee"~~] or

10 (b) a horse racetrack who performs
11 accounting, administration or management, cash handling, pari-
12 mutuel wagering operations, security and simulcasting
13 operations for the racetrack; and

14 (2) does not include:

15 [~~(1)~~] (a) bartenders, cocktail servers
16 or other persons engaged solely in preparing or serving food or
17 beverages;

18 [~~(2)~~] (b) secretarial or janitorial
19 personnel;

20 [~~(3)~~] (c) stage, sound and light
21 technicians; [~~or~~]

22 (d) a horseman's bookkeeper; or

23 [~~(4)~~] (e) other nongaming personnel;

24 S. "gaming establishment" means the premises on or
25 in which gaming is conducted;

1 T. "gaming machine" means a mechanical,
2 electrotechnical or electronic contrivance or machine that,
3 upon insertion of a coin, token or similar object, or upon
4 payment of any consideration, is available to play or operate a
5 game, whether the payoff is made automatically from the machine
6 or in any other manner;

7 U. "gaming operator" means a person who conducts
8 gaming at a gaming establishment or pari-mutuel wagering at a
9 horse racetrack on live or simulcast horse races;

10 V. "holding company" means a company that directly
11 or indirectly owns or has the power or right to control a
12 company that is an applicant or licensee, but a company that
13 does not have a beneficial ownership of more than ten percent
14 of the equity securities of a publicly traded corporation is
15 not a holding company;

16 W. "horse race" means a competition among horses on
17 a predetermined course, in which the horse completing the
18 course in the least time generally wins;

19 X. "horse racetrack" means a place where horse
20 races are conducted;

21 [~~W.~~] Y. "immediate family" means natural persons
22 who are related to a specified natural person by affinity or
23 consanguinity in the first through the third degree;

24 [~~X.~~] Z. "independent administrator" means a person
25 who administers an annuity, who is not associated in any manner

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1 with the gaming operator licensee for which the annuity was
2 purchased and is in no way associated with the person who will
3 be receiving the annuity;

4 ~~[Y-]~~ AA. "institutional investor" means a state or
5 federal government pension plan or a person that meets the
6 requirements of a qualified institutional buyer as defined in
7 Rule 144A of the federal Securities Act of 1933, and is:

8 (1) a bank as defined in Section 3(a)(6) of
9 the federal Securities Exchange Act of 1934;

10 (2) an insurance company as defined in Section
11 2(a)(17) of the federal Investment Company Act of 1940;

12 (3) an investment company registered under
13 Section 8 of the federal Investment Company Act of 1940;

14 (4) an investment adviser registered under
15 Section 203 of the federal Investment Advisers Act of 1940;

16 (5) collective trust funds as defined in
17 Section 3(c)(11) of the federal Investment Company Act of 1940;

18 (6) an employee benefit plan or pension fund
19 that is subject to the federal Employee Retirement Income
20 Security Act of 1974, excluding an employee benefit plan or
21 pension fund sponsored by a publicly traded corporation
22 registered with the board; or

23 (7) a group comprised entirely of persons
24 specified in Paragraphs (1) through (6) of this subsection;

25 ~~[Z-]~~ BB. "intermediary company" means a company

1 that:

2 (1) is a holding company with respect to a
3 company that is an applicant or licensee; and

4 (2) is a subsidiary with respect to any
5 holding company;

6 ~~[AA.]~~ CC. "key executive" means an executive of a
7 licensee or other person having the power to exercise
8 significant influence over decisions concerning any part of the
9 licensed operations of the licensee or whose compensation
10 exceeds an amount established by the board in a rule;

11 ~~[BB.]~~ DD. "license" means an authorization required
12 by the board for engaging in gaming activities or for engaging
13 in pari-mutuel wagering on live or simulcasted horse races;

14 ~~[CC.]~~ EE. "licensee" means a person to whom a valid
15 license has been issued;

16 ~~[DD.]~~ FF. "manufacturer" means a person who
17 manufactures, fabricates, assembles, produces, programs or
18 makes modifications to any gaming device for use or play in New
19 Mexico or for sale, lease or distribution outside New Mexico
20 from any location within New Mexico;

21 ~~[EE.]~~ GG. "net take" means the total of the
22 following, less the total of all cash paid out as losses to
23 winning patrons and those amounts paid to purchase annuities to
24 fund losses paid to winning patrons over several years by
25 independent administrators:

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1 (1) cash received from patrons for playing a
2 game;

3 (2) cash received in payment for credit
4 extended by a licensee to a patron for playing a game; and

5 (3) compensation received for conducting a
6 game in which the licensee is not a party to a wager;

7 [~~FF.~~] HH. "nonprofit organization" means:

8 (1) a bona fide chartered or incorporated
9 branch, lodge, order or association, in existence in New Mexico
10 prior to January 1, 1997, of a fraternal organization that is
11 described in Section 501(c)(8) or (10) of the federal Internal
12 Revenue Code of 1986 and that is exempt from federal income
13 taxation pursuant to Section 501(a) of that code; or

14 (2) a bona fide chartered or incorporated
15 post, auxiliary unit or society of, or a trust or foundation
16 for the post or auxiliary unit, in existence in New Mexico
17 prior to January 1, 1997, of a veterans' organization that is
18 described in Section 501(c)(19) or (23) of the federal Internal
19 Revenue Code of 1986 and that is exempt from federal income
20 taxation pursuant to Section 501(a) of that code;

21 II. "pari-mutuel wagering" means a system of
22 wagering in which bets on a live or simulcasted horse race are
23 placed in a common pool and then paid, less a management fee
24 and taxes, to those holding winning tickets;

25 [~~GG.~~] JJ. "person" means a legal entity;

1 ~~[HH-]~~ KK. "premises" means land, together with all
2 buildings, improvements and personal property located on the
3 land;

4 ~~[II-]~~ LL. "progressive jackpot" means a prize that
5 increases over time or as gaming machines that are linked to a
6 progressive system are played and upon conditions established
7 by the board may be paid by an annuity;

8 ~~[JJ-]~~ MM. "public post-secondary educational
9 institution" means an institution designated in Article 12,
10 Section 11 of the constitution of New Mexico and an institution
11 designated in Chapter 21, Articles 13, 14 and 16 [~~and 17~~] NMSA
12 1978;

13 ~~[KK-]~~ NN. "progressive system" means one or more
14 gaming machines linked to one or more common progressive
15 jackpots;

16 ~~[LL-]~~ OO. "publicly traded corporation" means a
17 corporation that:

18 (1) has one or more classes of securities
19 registered pursuant to the securities laws of the United States
20 or New Mexico;

21 (2) is an issuer subject to the securities
22 laws of the United States or New Mexico; or

23 (3) has one or more classes of securities
24 registered or is an issuer pursuant to applicable foreign laws
25 that, the board finds, provide protection for institutional

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1 investors that is comparable to or greater than the stricter of
2 the securities laws of the United States or New Mexico;

3 PP. "race meet" means a period of live horse racing
4 conducted on the racing grounds of a racetrack gaming operator
5 licensee and authorized by the state racing commission pursuant
6 to the Horse Racing Act;

7 QQ. "racing grounds" means the area of a licensee's
8 premises used for the purpose of conducting horse races and all
9 activities ancillary to the conduct of horse races, including
10 the track, horse barns and stalls, jockeys' quarters and horse
11 training areas;

12 [~~MM.~~] RR. "registration" means a board action that
13 authorizes a company to be a holding company with respect to a
14 company that holds or applies for a license or that relates to
15 other persons required to be registered pursuant to the Gaming
16 Control Act;

17 SS. "simulcast" means a live audio-visual broadcast
18 of a horse race being run at a horse racetrack other than the
19 horse racetrack at which the broadcast is being received for
20 viewing pursuant to a simulcasting contract;

21 [~~NN.~~] TT. "subsidiary" means a company, all or a
22 part of whose outstanding equity securities are owned, subject
23 to a power or right of control or held, with power to vote, by
24 a holding company or intermediary company; and

25 [~~OO.~~] UU. "work permit" means a card, certificate

1 or permit issued by the board, whether denominated as a work
2 permit, registration card or otherwise, authorizing the
3 employment of the holder as a gaming employee."

4 Section 16. Section 60-2E-5 NMSA 1978 (being Laws 1997,
5 Chapter 190, Section 7, as amended) is amended to read:

6 "60-2E-5. GAMING CONTROL BOARD CREATED.--

7 A. The "gaming control board" is created and
8 consists of five members. [~~Four~~] Members are appointed by the
9 governor with the advice and consent of the senate [~~and one ex-~~
10 ~~officio member is the chairman of the state racing commission~~].
11 All members of the board shall be residents of New Mexico and
12 citizens of the United States. One [~~appointed~~] member of the
13 board shall have a minimum of five years of previous employment
14 in a supervisory and administrative position in a law
15 enforcement agency; one [~~appointed~~] member of the board shall
16 be a certified public accountant in New Mexico who has had at
17 least five years of experience in public accountancy; one
18 [~~appointed~~] member of the board shall be an attorney who has
19 been admitted to practice before the supreme court of New
20 Mexico; one member of the board shall be a public member of the
21 state racing commission; and one [~~appointed~~] member of the
22 board shall be a public member who has knowledge and experience
23 in business management and financing.

24 B. The [~~appointed~~] members of the board shall be
25 appointed for terms of five years, except, of the members who

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1 are first appointed, the member with law enforcement experience
2 shall be appointed for a term of five years; the member who is
3 a certified public accountant shall be appointed for a term of
4 four years; the member who is an attorney shall be appointed
5 for a term of three years; and the public member, who is not a
6 state racing commissioner, shall be appointed for a term of two
7 years. Thereafter, all members shall be appointed for terms of
8 five years. ~~[No]~~ A person shall not serve as a board member
9 for more than two consecutive terms or ten years total.

10 C. ~~[No]~~ A full-time board member who receives a
11 salary pursuant to Subsection G of this section may not be
12 employed in any other capacity or shall not in any manner
13 receive compensation for services rendered to any person or
14 entity other than the board while a member of the board.

15 D. A vacancy on the board of an appointed member
16 shall be filled within thirty days by the governor with the
17 advice and consent of the senate for the unexpired portion of
18 the term in which the vacancy occurs. A person appointed to
19 fill a vacancy shall meet all qualification requirements of the
20 office established in this section.

21 E. The governor shall choose a ~~[chairman]~~ chair
22 annually from the board's appointed full-time, salaried
23 members.

24 F. No more than three members of the board shall be
25 from the same political party.

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underscoring material = new
[bracketed material] = delete

1 G. The law enforcement, certified public accountant
2 and attorney members of the board shall be full-time state
3 officials and shall receive a salary set by the governor. The
4 public member and [~~ex-officio~~] state racing commission member
5 of the board shall not receive salaries for their work for the
6 board. All [~~appointed~~] members of the board shall receive per
7 diem and mileage pursuant to the provisions of the Per Diem and
8 Mileage Act.

9 H. The department of public safety shall conduct
10 background investigations of all members of the board prior to
11 confirmation by the senate. To assist the department in the
12 background investigation, a prospective board member shall
13 furnish a disclosure statement to the department on a form
14 provided by the department containing that information deemed
15 by the department as necessary for completion of a detailed and
16 thorough background investigation. The required information
17 shall include at least:

18 (1) a full set of fingerprints made by a law
19 enforcement agency on forms supplied by the department;

20 (2) complete information and details with
21 respect to the prospective board member's antecedents, habits,
22 immediate family, character, criminal record, business
23 activities, financial affairs and business associates covering
24 at least a ten-year period immediately preceding the date of
25 submitting the disclosure statement;

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1 (3) complete disclosure of any equity interest
2 held by the prospective board member or a member of [~~his~~] the
3 prospective board member's immediate family in a company that
4 is an applicant or licensee or an affiliate, affiliated
5 company, intermediary company or holding company in respect to
6 an applicant or licensee; and

7 (4) the names and addresses of members of the
8 immediate family of the prospective board member.

9 I. [~~No~~] A person may not be appointed or confirmed
10 as a member of the board if that person or member of [~~his~~] that
11 person's immediate family holds an equity interest in a company
12 that is an applicant or licensee or an affiliate, affiliated
13 company, intermediary company or holding company in respect to
14 an applicant or licensee.

15 J. A prospective board member shall provide
16 assistance and information requested by the department of
17 public safety or the governor and shall cooperate in any
18 inquiry or investigation of the prospective board member's
19 fitness or qualifications to hold the office to which he is
20 appointed. The senate shall not confirm a prospective board
21 member if it has reasonable cause to believe that the
22 prospective board member has:

23 (1) knowingly misrepresented or omitted a
24 material fact required in a disclosure statement;

25 (2) been convicted of a felony, a gaming

1 related offense or a crime involving fraud, theft or moral
2 turpitude within ten years immediately preceding the date of
3 submitting a disclosure statement required pursuant to the
4 provisions of Subsection H of this section;

5 (3) exhibited a history of willful disregard
6 for the gaming laws of this or any other state or the United
7 States; or

8 (4) had a permit or license issued pursuant to
9 the gaming laws of this or any other state or the United States
10 permanently suspended or revoked for cause.

11 K. At the time of taking office, each board member
12 shall file with the secretary of state a sworn statement that
13 [~~he~~] the board member is not disqualified under the provisions
14 of Subsection I of this section."

15 Section 17. Section 60-2E-7 NMSA 1978 (being Laws 1997,
16 Chapter 190, Section 9, as amended) is amended to read:

17 "60-2E-7. BOARD'S POWERS AND DUTIES.--

18 A. The board shall implement the state's policy on
19 gaming consistent with the provisions of the Gaming Control Act
20 and the Bingo and Raffle Act. It has the duty to fulfill all
21 responsibilities assigned to it pursuant to those acts, and it
22 has all authority necessary to carry out those
23 responsibilities. It may delegate authority to the executive
24 director, but it retains accountability. The board is an
25 adjunct agency.

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1 B. The board shall:

2 (1) employ the executive director;

3 (2) make the final decision on issuance,
4 denial, suspension and revocation of all licenses pursuant to
5 and consistent with the provisions of the Gaming Control Act
6 and the Bingo and Raffle Act;

7 (3) develop, adopt and promulgate all
8 regulations necessary to implement and administer the
9 provisions of the Gaming Control Act and the Bingo and Raffle
10 Act;

11 (4) conduct itself, or employ a hearing
12 officer to conduct, all hearings required by the provisions of
13 the Gaming Control Act and other hearings it deems appropriate
14 to fulfill its responsibilities;

15 (5) meet at least once each month; ~~and~~

16 (6) prepare and submit an annual report in
17 December of each year to the governor and the legislature,
18 covering activities of the board in the most recently completed
19 fiscal year, a summary of gaming activities in the state and
20 any recommended changes in or additions to the laws relating to
21 gaming in the state;

22 (7) issue or renew a racetrack gaming
23 operator's license only after the state racing commission
24 approves the applicant for an original license or approves the
25 continued operation of the horse racetrack and certifies to the

1 board that the horse racetrack of the gaming operator licensee
 2 has complied with the requirements of the state racing
 3 commission, and issue work permits for gaming employees who are
 4 employed on the racing grounds or performing duties for the
 5 horse racetrack of the racetrack gaming operator licensee;

6 (8) personally or by agents or
 7 representatives, supervise and verify the making of pari-mutuel
 8 pools and the distribution from those pools;

9 (9) adopt rules governing, restricting or
 10 regulating bids on leases at racetracks; and

11 (10) supervise and control the pari-mutuel
 12 machines and equipment at all horse races, including
 13 simulcasted races, held or licensed by the state, its agencies
 14 or commissions.

15 C. The board may:

16 (1) impose civil fines not to exceed
 17 twenty-five thousand dollars (\$25,000) for the first violation
 18 and fifty thousand dollars (\$50,000) for subsequent violations
 19 of any prohibitory provision of the Gaming Control Act or any
 20 prohibitory provision of a regulation adopted pursuant to that
 21 act;

22 (2) conduct investigations;

23 (3) subpoena persons and documents to compel
 24 access to or the production of documents and records, including
 25 books and memoranda, in the custody or control of a licensee;

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underscored material = new
 [bracketed material] = delete

1 (4) compel the appearance of employees of a
2 licensee or persons for the purpose of ascertaining compliance
3 with provisions of the Gaming Control Act or a regulation
4 adopted pursuant to its provisions;

5 (5) administer oaths and take depositions to
6 the same extent and subject to the same limitations as would
7 apply if the deposition were pursuant to discovery rules in a
8 civil action in the district court;

9 (6) sue and be sued subject to the limitations
10 of the Tort Claims Act;

11 (7) contract for the provision of goods and
12 services necessary to carry out its responsibilities;

13 (8) conduct audits, relevant to their gaming
14 activities, of applicants, licensees and persons affiliated
15 with licensees;

16 (9) inspect, examine, photocopy and audit all
17 documents and records of an applicant or licensee relevant to
18 [~~his~~] the applicant's or licensee's gaming activities in the
19 presence of the applicant or licensee or [~~his~~] the applicant's
20 or licensee's agent;

21 (10) require verification of income and all
22 other matters pertinent to the gaming activities of an
23 applicant or licensee affecting the enforcement of any
24 provision of the Gaming Control Act;

25 (11) inspect all places where gaming

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1 activities are conducted and inspect all property connected
2 with gaming in those places;

3 (12) summarily seize, remove and impound from
4 places inspected any gaming devices, property connected with
5 gaming, documents or records for the purpose of examination or
6 inspection;

7 (13) inspect, examine, photocopy and audit
8 documents and records, relevant to ~~his~~ the affiliate's gaming
9 activities, of any affiliate of an applicant or licensee that
10 the board knows or reasonably suspects is involved in the
11 financing, operation or management of the applicant or
12 licensee. The inspection, examination, photocopying and audit
13 shall be in the presence of a representative of the affiliate
14 or its agent when practicable; and

15 (14) except for the powers specified in
16 Paragraphs (1) and (4) of this subsection, carry out all or
17 part of the foregoing powers and activities through the
18 executive director.

19 D. The board shall monitor all activity authorized
20 in an Indian gaming compact between the state and an Indian
21 nation, tribe or pueblo. The board shall appoint the state
22 gaming representative for the purposes of the compact.

23 E. The board shall work cooperatively with the
24 state racing commission to develop rules and procedures to
25 exercise the following powers and duties:

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1 (1) approve all contracts and agreements for
2 the payment of money and all salaries, fees and compensation by
3 a racetrack gaming operator licensee;

4 (2) exclude or compel the exclusion from any
5 or all horse racetracks in the state a person whose behavior is
6 found to be detrimental to the best interests of horse racing,
7 as defined by the board, or a person who willfully violates the
8 racing laws or rules of this state or another state;

9 (3) observe and investigate the operations of
10 a licensee to assure that the racing laws and rules of New
11 Mexico and other relevant jurisdictions are complied with; and

12 (4) withhold final approval of an original
13 license or a renewal license for a racetrack gaming operator
14 until the state racing commission has approved an applicant for
15 an original license or approved the continued operation of the
16 horse racetrack and certified to the board that the horse
17 racetrack on the premises of a racetrack gaming operator
18 licensee is in compliance with the requirements of the
19 commission.

20 F. All powers and duties of the Horse Racing Act
21 not expressly transferred to the board or not expressly
22 identified as a power or duty to be cooperatively exercised by
23 the board and the state racing commission shall remain within
24 the exclusive jurisdiction and authority of the state racing
25 commission."

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1 Section 18. Section 60-2E-10 NMSA 1978 (being Laws 1997,
2 Chapter 190, Section 12, as amended) is amended to read:

3 "60-2E-10. EXECUTIVE DIRECTOR--POWERS--DUTIES.--

4 A. The executive director shall implement the
5 policies of the board.

6 B. The executive director shall employ all
7 personnel who work for the board. The employees shall be
8 covered employees pursuant to the provisions of the Personnel
9 Act. Among those personnel, [~~he~~] the executive director shall
10 employ and designate an appropriate number of individuals as
11 law enforcement officers subject to proper certification
12 pursuant to the Law Enforcement Training Act. Law enforcement
13 officers shall not carry firearms on racing grounds, except as
14 provided in rules adopted by the board, and pursuant to
15 approval of the state racing commission.

16 C. The executive director shall establish
17 organizational units [~~he~~] the executive director determines are
18 appropriate to administer the provisions of the Gaming Control
19 Act.

20 D. The executive director:

21 (1) may delegate authority to subordinates as
22 [~~he~~] the executive director deems necessary and appropriate,
23 clearly delineating the delegated authority and the limitations
24 on it, if any;

25 (2) shall take administrative action by

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1 issuing orders and instructions consistent with the Gaming
2 Control Act and regulations of the board to assure
3 implementation of and compliance with the provisions of that
4 act and those regulations;

5 (3) may issue administrative citations to
6 ~~[any]~~ a licensee upon a reasonable belief that the licensee has
7 violated or is violating any provision of the Gaming Control
8 Act or regulations of the board;

9 (4) may conduct research and studies that will
10 improve the operations of the board and the provision of
11 services to the citizens of the state;

12 (5) may provide courses of instruction and
13 practical training for employees of the board and other persons
14 involved in the activities regulated by the board with the
15 objectives of improving operations of the board and achieving
16 compliance with the law and regulations;

17 (6) shall prepare an annual budget for the
18 board and submit it to the board for approval; and

19 (7) shall make recommendations to the board of
20 proposed regulations and any legislative changes needed to
21 provide better administration of the Gaming Control Act and
22 fair and efficient regulation of gaming activities in the
23 state."

24 Section 19. Section 60-2E-14 NMSA 1978 (being Laws 1997,
25 Chapter 190, Section 16, as amended) is amended to read:

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1 "60-2E-14. LICENSURE--APPLICATION.--

2 A. The board shall establish and issue the
3 following categories of licenses:

- 4 (1) manufacturer;
5 (2) distributor;
6 (3) gaming operator; and
7 (4) gaming machine.

8 B. The board shall issue certifications of findings
9 of suitability for key executives and other persons for whom
10 certification is required. The board may issue one
11 certification of finding of suitability for a key executive or
12 other person found suitable for employment in both gaming and
13 racing operations.

14 C. The board shall issue work permits for gaming
15 employees. The board may issue one permit to allow a gaming
16 employee to work in both gaming and racing operations.

17 D. A licensee shall not be issued more than one
18 type of license, but this provision does not prohibit a
19 licensee from owning, leasing, acquiring or having in [~~his~~] the
20 licensee's possession licensed gaming machines if that activity
21 is otherwise allowed by the provisions of the Gaming Control
22 Act. A licensee shall not own a majority interest in, manage
23 or otherwise control a holder of another type of license issued
24 pursuant to the provisions of that act.

25 E. Applicants shall apply on forms provided by the

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1 board and furnish all information requested by the board.
2 Submission of an application constitutes consent to a credit
3 check of the applicant and all persons having a substantial
4 interest in the applicant and any other background
5 investigations required pursuant to the Gaming Control Act or
6 deemed necessary by the board. The board may obtain from the
7 taxation and revenue department copies of tax returns filed by
8 or on behalf of the applicant or its affiliates and information
9 concerning liens imposed on the applicant or its affiliates by
10 the taxation and revenue department.

11 F. All licenses issued by the board pursuant to the
12 provisions of this section shall be reviewed for renewal
13 annually unless revoked, suspended, canceled or terminated.

14 G. A license shall not be transferred or assigned.

15 H. The application for a license shall include:

- 16 (1) the name of the applicant;
17 (2) the location of the proposed operation;
18 (3) the gaming devices to be operated,
19 manufactured, distributed or serviced;
20 (4) the names of all persons having a direct
21 or indirect interest in the business of the applicant and the
22 nature of such interest; and
23 (5) such other information and details as the
24 board may require.

25 I. The board shall furnish to the applicant

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1 supplemental forms that the applicant shall complete and file
2 with the application. [~~Such~~] The supplemental forms shall
3 require complete information and details with respect to the
4 applicant's antecedents, habits, immediate family, character,
5 criminal record, business activities, financial affairs and
6 business associates, covering at least a ten-year period
7 immediately preceding the date of filing of the application."

8 Section 20. A new section of the Gaming Control Act,
9 Section 60-2E-14.1 NMSA 1978, is enacted to read:

10 "60-2E-14.1. [NEW MATERIAL] CLASSIFICATION OF LICENSES--
11 RACETRACK GAMING OPERATOR LICENSEES.--

12 A. A gaming operator licensee authorized to conduct
13 pari-mutuel wagering on live horse races on the racing grounds
14 of the racetrack gaming operator licensee and on simulcasted
15 horse races received on the racetrack gaming operator
16 licensee's premises shall be issued either a class A or class B
17 racetrack gaming operator license pursuant to the following:

18 (1) a class A license shall be issued to a
19 gaming operator licensee for a horse racetrack at which the
20 total gross amount wagered through the pari-mutuel system in
21 the preceding calendar year from live horse races and
22 simulcasted races was ten million dollars (\$10,000,000) or
23 more; and

24 (2) a class B license shall be issued to a
25 gaming operator licensee for a horse racetrack at which the

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1 total gross amount wagered through the pari-mutuel system in
2 the preceding calendar year from live horse races and
3 simulcasted races was less than ten million dollars
4 (\$10,000,000).

5 B. A new gaming operator licensee shall be given a
6 classification by the board based on the best estimate of the
7 projected total gross amount to be wagered at the new horse
8 racetrack through the pari-mutuel system from live horse races
9 and simulcasted races.

10 C. Each class of license is subject to the
11 provisions of the Gaming Control Act and the Horse Racing Act,
12 except as explicitly stated in one of those acts.

13 D. The board shall adopt rules as necessary to
14 provide for racetrack gaming operator license classification."

15 Section 21. A new section of the Gaming Control Act,
16 Section 60-2E-16.1 NMSA 1978, is enacted to read:

17 "60-2E-16.1. [NEW MATERIAL] LICENSING REQUIREMENTS--
18 RACETRACK GAMING OPERATOR LICENSEES--SPECIAL CONDITIONS.--

19 A. The board may limit the number of persons
20 holding direct or indirect financial interests in a gaming
21 operator's license.

22 B. The board shall determine if the financial
23 interests of an applicant or group of applicants are compatible
24 with the general welfare of the residents of the state.

25 C. A person shall not have a direct or indirect

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1 interest of any nature in gaming operator's licenses at more
2 than two horse racetracks in the state.

3 D. The board shall order a person having a direct
4 or indirect interest in more than two horse racetracks in New
5 Mexico to immediately divest himself of the interest. From the
6 date the board issues the order to divest, the person shall
7 not:

8 (1) exercise financial, administrative,
9 policymaking or supervisory power with respect to the horse
10 racetrack;

11 (2) act as an officer or director of the horse
12 racetrack;

13 (3) receive dividends, either in cash or stock
14 from the horse racetrack;

15 (4) hold or receive interest on a certificate
16 of indebtedness from the horse racetrack;

17 (5) exercise, individually or through a
18 trustee, nominee or agent, a voting right or other power or
19 privilege conferred by the person's direct or indirect interest
20 in the horse racetrack; or

21 (6) otherwise receive remuneration of any kind
22 or nature from the business.

23 E. As used in this section, "direct or indirect
24 interest" means an administrative, policymaking, supervisory,
25 financial interest or other interest deemed by the board to

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1 provide significant control over the conduct of horse racing,
2 the handling or generation of proceeds or the development or
3 implementation of policy of a horse racetrack; a financial
4 interest is one held directly or indirectly, or beneficially,
5 comprising ten percent or more of the total authorized, issued
6 and outstanding securities of a business that is licensed to
7 conduct horse racing in New Mexico."

8 Section 22. Section 60-2E-27 NMSA 1978 (being Laws 1997,
9 Chapter 190, Section 29, as amended) is amended to read:

10 "60-2E-27. GAMING OPERATOR LICENSEES--SPECIAL CONDITIONS
11 FOR RACETRACKS--NUMBER OF GAMING MACHINES--DAYS AND HOURS OF
12 OPERATIONS.--

13 A. The board may issue a gaming operator's license
14 to a horse racetrack [~~licensed by the state racing commission~~
15 ~~pursuant to the Horse Racing Act~~] to conduct live horse races
16 or simulcast races [~~may be issued a gaming operator's license~~]
17 and to operate gaming machines [~~on its premises where live~~
18 ~~racing is conducted~~], provided that the state racing commission
19 approves the applicant for operation of a horse racetrack and
20 certifies to the board that the horse racetrack is in
21 compliance with the requirements of the commission.

22 B. The board may approve the renewal of the license
23 of a racetrack gaming operator licensee only after the state
24 racing commission has approved the continued operation of the
25 horse racetrack and certified to the board that the horse

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1 racetrack on the premises of the racetrack gaming operator
 2 licensee has complied with the requirements of the commission.

3 ~~[B.]~~ C. A ~~[racetrack's]~~ racetrack gaming operator's
 4 license shall automatically become void if

5 ~~[(1) the racetrack no longer holds an active~~
 6 ~~license to conduct pari-mutuel wagering; or~~

7 ~~(2)]~~ the horse racetrack fails to maintain a
 8 minimum of four live race days a week with at least nine live
 9 races on each race day during its licensed race meet.

10 ~~[C.]~~ D. A racetrack gaming operator licensee ~~[that~~
 11 ~~is a racetrack]~~ may have up to six hundred licensed gaming
 12 machines, but the number of gaming machines to be located on
 13 the licensee's premises shall be specified in the gaming
 14 operator's license.

15 ~~[D.]~~ E. By execution of an allocation agreement,
 16 signed by both the allocating horse racetrack and the horse
 17 racetrack to whom the allocation is made, a gaming operator
 18 licensee that is a horse racetrack may allocate any number of
 19 its authorized gaming machines to another racetrack gaming
 20 operator licensee ~~[that is a racetrack]~~. To be valid, the
 21 allocation agreement must bear the written approval of the
 22 board and the state racing commission, and this approval shall
 23 make specific reference to the ~~[meeting]~~ meetings at which the
 24 action of approval was taken and the number of votes cast both
 25 for and against the approval. By allocating a number of its

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1 authorized machines to another horse racetrack, the allocating
2 horse racetrack automatically surrenders all rights to operate
3 the number of machines allocated. No horse racetrack shall
4 operate or be authorized to operate more than seven hundred
5 fifty gaming machines.

6 ~~[E-]~~ F. Gaming machines on a racetrack gaming
7 operator licensee's premises may be played only on days when
8 the racetrack is either conducting live horse races or
9 simulcasting horse ~~[race meets]~~ races. On days when gaming
10 machines are permitted to be operated, a racetrack gaming
11 operator licensee may offer gaming machines for operation for
12 up to eighteen hours per day; provided that the total number of
13 hours in which gaming machines are operated does not exceed one
14 hundred twelve hours in a one-week period beginning on Tuesday
15 at 8:00 a.m. and ending at 8:00 a.m. on the following Tuesday.
16 A racetrack gaming operator licensee may offer gaming machines
17 for play at any time during a day, provided that the total
18 hours of operation in each day from just after midnight of the
19 previous day until midnight of the current day does not exceed
20 eighteen hours. A racetrack gaming operator licensee shall
21 determine, within the limitations imposed by this subsection,
22 the hours it will offer gaming machines for operation each day
23 and shall notify the board in writing of those hours.

24 ~~[F-]~~ G. Alcoholic beverages shall not be sold,
25 served, delivered or consumed in the area restricted pursuant

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underscoring material = new
[bracketed material] = delete

1 to Subsection F of Section 60-2E-26 NMSA 1978."

2 Section 23. A new section of the Gaming Control Act,
3 Section 60-2E-27.1 NMSA 1978, is enacted to read:

4 "60-2E-27.1. [NEW MATERIAL] PARI-MUTUEL WAGERING--
5 RACETRACK GAMING OPERATOR LICENSEES--LIMITED TO ENCLOSURE WHERE
6 HORSE RACES ARE CONDUCTED.--

7 A. A racetrack gaming operator licensed by the
8 board may conduct pari-mutuel wagering on live horse races or
9 on simulcasted horse races.

10 B. Pari-mutuel wagering may be conducted only
11 within the enclosure where horse races are conducted on the
12 racing grounds of a racetrack gaming operator licensee.

13 C. A racetrack gaming operator licensee may sell
14 pari-mutuel tickets or certificates only for:

15 (1) live races being conducted on the racing
16 grounds on the premises of the racetrack gaming operator
17 licensee; or

18 (2) simulcasted races received on the premises
19 of the racetrack gaming operator licensee.

20 D. Pari-mutuel tickets or certificates may be sold
21 only in the racing enclosure on the racing grounds of a gaming
22 operator licensee or in areas set aside for viewing simulcasted
23 races on the premises of the gaming operator licensee.

24 E. Pari-mutuel wagering on the racing grounds of a
25 gaming operator licensee on simulcasted races is permitted on

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1 all days during a live race meet or on all days of the weeks
2 during which the licensee is receiving simulcasted races from
3 another licensed horse racetrack in New Mexico.

4 F. A racetrack gaming operator licensee shall not
5 receive broadcasts of simulcasted horse races unless that horse
6 racetrack offers at least seventeen days per year of pari-
7 mutuel wagering on on-premises live horse races."

8 Section 24. A new section of the Gaming Control Act,
9 Section 60-2E-27.2 NMSA 1978, is enacted to read:

10 "60-2E-27.2. [NEW MATERIAL] INTERSTATE COMMON-POOL
11 WAGERING AUTHORIZED--RACETRACK GAMING OPERATOR LICENSEES.--

12 A. Subject to the federal Interstate Horseracing
13 Act of 1978, the state racing commission may permit a racetrack
14 gaming operator licensee to participate in interstate common
15 pools. All provisions of the Gaming Control Act that govern
16 pari-mutuel wagering apply to pari-mutuel wagering in
17 interstate common pools, except as approved by the state racing
18 commission and reported to the board.

19 B. Daily pari-mutuel excise and daily racing taxes
20 shall not be imposed upon amounts wagered in an interstate
21 common pool other than upon amounts wagered within this state.

22 C. As used in this section, "interstate common
23 pool" means a pari-mutuel pool that combines comparable pari-
24 mutuel pools of one or more locations accepting wagers on a
25 horse race run at the host track for purposes of establishing

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1 payoff prices at the pool members' locations. Pool members
 2 from more than one state may simultaneously combine pari-mutuel
 3 pools into an interstate common pool."

4 Section 25. Section 60-2E-41 NMSA 1978 (being Laws 1997,
 5 Chapter 190, Section 43) is amended to read:

6 "60-2E-41. COMMUNICATION OR DOCUMENT OF APPLICANT OR
 7 LICENSEE ABSOLUTELY CONFIDENTIAL--CONFIDENTIALITY NOT
 8 WAIVED--DISCLOSURE OF CONFIDENTIAL INFORMATION PROHIBITED.--

9 A. Any communication or document of an applicant or
 10 licensee is confidential and does not impose liability for
 11 defamation or constitute a ground for recovery in any civil
 12 action if it is required by:

13 (1) law or the regulations of the board; or

14 (2) a subpoena issued by the board to be made
 15 or transmitted to the board.

16 B. The confidentiality created pursuant to
 17 Subsection A of this section is not waived or lost because the
 18 document or communication is disclosed to the board.

19 C. Notwithstanding the powers granted to the board
 20 by the Gaming Control Act, the board:

21 (1) may release or disclose any confidential
 22 information, documents or communications provided by an
 23 applicant or licensee only with the prior written consent of
 24 the applicant or licensee or pursuant to a lawful court order
 25 after timely notice of the proceedings has been given to the

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1 applicant or licensee;

2 (2) shall maintain all confidential
3 information, documents and communications in a secure place
4 accessible only to members of the board; ~~and~~

5 (3) shall adopt procedures and regulations to
6 protect the confidentiality of information, documents and
7 communications provided by an applicant or licensee; and

8 (4) shall release or disclose confidential
9 information, documents or communications provided by an
10 applicant or licensee or obtained from a background check to
11 the state racing commission upon request or as necessary to
12 allow the state racing commission to approve and certify an
13 applicant for an original racetrack gaming operator's license
14 or a licensee for renewal of a racetrack gaming operator's
15 license."

16 Section 26. A new section of the Gaming Control Act,
17 Section 60-2E-47.1 NMSA 1978, is enacted to read:

18 "60-2E-47.1. [NEW MATERIAL] HORSE RACING--DAILY PARI-
19 MUTUEL EXCISE TAX--IMPOSITION--AMOUNT.--

20 A. A tax that may be cited as the "daily pari-
21 mutuel excise tax" is imposed for the privilege of conducting
22 pari-mutuel wagering on the racing grounds of a racetrack
23 gaming operator licensee.

24 B. The amount of the daily pari-mutuel excise tax
25 to be paid when the licensee offers pari-mutuel wagering on

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1 live races conducted on the racing grounds of the premises of
2 the racetrack gaming operator licensee shall be:

3 (1) for a class A license, six hundred fifty
4 dollars (\$650) for each racing day authorized by the state
5 racing commission; and

6 (2) for a class B license, one-eighth percent
7 of a class B licensee's gross amount wagered each day, up to a
8 maximum of three hundred dollars (\$300), for each racing day
9 authorized by the state racing commission for the class B
10 licensee.

11 C. The daily pari-mutuel excise tax to be paid when
12 a racetrack gaming operator licensee offers no pari-mutuel
13 wagering on live races on the racing grounds on its premises
14 and offers pari-mutuel wagering solely on simulcasted races
15 shall be one-eighth percent of the licensee's gross amount
16 wagered each day, up to a maximum of three hundred dollars
17 (\$300) for each racing day authorized by the state racing
18 commission.

19 D. The daily pari-mutuel excise tax for a state
20 fair association designated by law, that in good faith conducts
21 a public fair and exhibition of stock and farming products,
22 shall be six hundred fifty dollars (\$650) per day for each
23 racing day authorized; provided, however, that when a licensed
24 state fair association offers no pari-mutuel wagering on live
25 races on the racing grounds on its premises and offers pari-

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1 mutuel wagering solely on simulcasted races, the daily pari-
2 mutuel excise tax shall be one-eighth percent of the racetrack
3 gaming operator licensee's gross amount wagered each day, up to
4 a maximum of three hundred dollars (\$300)."

5 Section 27. A new section of the Gaming Control Act,
6 Section 60-2E-47.2 NMSA 1978, is enacted to read:

7 "60-2E-47.2. [NEW MATERIAL] DAILY RACING TAX--
8 IMPOSITION--RACETRACK GAMING OPERATOR LICENSEES--AMOUNT--
9 PROHIBITION OF CERTAIN OTHER TAXES.--

10 A. In addition to the daily pari-mutuel excise tax
11 imposed pursuant to Section 60-2E-47.1 NMSA 1978, but in lieu
12 of the gross receipts tax imposed pursuant to the Gross
13 Receipts and Compensating Tax Act on receipts of a racetrack
14 gaming operator licensee from the gross amount wagered each
15 day, a tax that may be referred to as the "daily racing tax" is
16 imposed in an amount of two and three-sixteenths percent of the
17 gross amount wagered each day on horse races on the premises of
18 a racetrack gaming operator licensee. The tax shall be paid
19 from the commissions on pari-mutuel wagering of the racetrack
20 gaming operator licensee. The tax shall be paid on the gross
21 amount wagered each day from live racing on the racing grounds
22 of the racetrack gaming operator licensee or on simulcasted
23 races on the premises of the racetrack gaming operator
24 licensee.

25 B. A deduction or offset from the daily racing tax

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1 due and owed by a racetrack gaming operator licensee may be
2 taken on forms provided by the taxation and revenue department
3 by the racetrack gaming operator licensee of not more than one-
4 half of the annual daily racing tax due and owed for the first
5 two hundred fifty thousand dollars (\$250,000) of the gross
6 amount wagered each day for a taxable year, as follows:

7 (1) a class A racetrack gaming operator
8 licensee may deduct the amount that the class A racetrack
9 gaming operator licensee expends for capital improvements or in
10 financing capital improvements at existing racetrack
11 facilities; and

12 (2) a class B racetrack gaming operator
13 licensee may deduct:

14 (a) the amount that the class B
15 racetrack gaming operator licensee expends for capital
16 improvements, not to exceed fifty percent of the offset amount
17 allowed pursuant to this subsection; and

18 (b) the amount that the class B
19 racetrack gaming operator licensee expends for advertising,
20 marketing and promoting horse racing in the state, not to
21 exceed fifty percent of the offset allowed pursuant to this
22 subsection.

23 C. An amount equal to one-half of the daily racing
24 tax imposed pursuant to Subsection A of this section is
25 appropriated and is transferred to the state fair commission

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1 for expenditure as needed on capital improvements at the state
2 fairgrounds and expenditure for debt service on negotiable
3 bonds issued for the capital improvements. The unexpended or
4 unencumbered balance remaining at the end of a fiscal year from
5 the transfers to the state fair commission made pursuant to
6 this subsection shall not revert to the general fund.

7 D. Accurate records shall be kept by a racetrack
8 gaming operator licensee to show all commissions, total amounts
9 wagered, retainage, distributions and breakage and other
10 information requested by the board. Records shall be open to
11 inspection and shall be audited by the board or its authorized
12 representatives. A racetrack gaming operator licensee is
13 required to maintain records for pari-mutuel wagering and all
14 other financial transactions of the horse racetrack according
15 to generally accepted accounting principles, pursuant to
16 requirements established by the board.

17 E. Notwithstanding any other provision of law, a
18 political subdivision of the state shall not impose an
19 occupational or excise tax on a racetrack operating pursuant to
20 the provisions of the Gaming Control Act or the Horse Racing
21 Act. A political subdivision may impose local option gross
22 receipts taxes on businesses within the political subdivision's
23 jurisdiction to the extent authorized and permitted by law.

24 F. As used in this section, "capital improvement"
25 means a capital investment in infrastructure that is subject to

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underscored material = new
[bracketed material] = delete

1 depreciation pursuant to the federal Internal Revenue Code of
2 1986 and is approved by the state racing commission."

3 Section 28. A new section of the Gaming Control Act,
4 Section 60-2E-47.3 NMSA 1978, is enacted to read:

5 "60-2E-47.3. [NEW MATERIAL] DETERMINATION OF MUNICIPAL
6 COMPENSATION.--

7 A. No later than August 31 of each year, the
8 taxation and revenue department shall determine the total
9 amount of local option gross receipts taxes paid in the
10 previous fiscal year by a racetrack gaming operator licensee to
11 the municipality in which the racetrack gaming operator
12 licensee is located, that is subject to distribution pursuant
13 to Section 7-1-6.12 NMSA 1978 to the municipality in which the
14 premises of the racetrack gaming operator licensee is located.

15 B. If the total distribution pursuant to Section
16 7-1-6.12 NMSA 1978 to a municipality from the racetrack gaming
17 operator licensee is:

18 (1) less than fifty thousand dollars
19 (\$50,000), then the taxation and revenue department shall
20 distribute the difference between fifty thousand dollars
21 (\$50,000) and the amount of local option gross receipts taxes
22 distributed to the municipality from payments of local option
23 gross receipts taxes made by the racetrack gaming operator
24 licensee in the last fiscal year from the revenue remitted in
25 daily racing taxes pursuant to Section 60-2E-47.2 NMSA 1978; or

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1 (2) equal to or exceeds fifty thousand dollars
2 (\$50,000), then no amount of daily racing taxes from that
3 racetrack gaming operator licensee shall be distributed to the
4 municipality.

5 C. The taxation and revenue department shall update
6 the board periodically of its progress in calculating the
7 distributions and notify the board when the distributions are
8 complete.

9 D. The taxation and revenue department shall inform
10 the board of the amount of daily racing tax distributed
11 pursuant to this section to municipalities from each racetrack
12 gaming operator licensee no later than August 31 of each year.

13 E. Balances of daily racing tax remaining after
14 distribution to municipalities shall be deposited to the credit
15 of the general fund."

16 Section 29. A new section of the Gaming Control Act,
17 Section 60-2E-47.4 NMSA 1978, is enacted to read:

18 "60-2E-47.4. [NEW MATERIAL] DAILY RACE LICENSE FEE--
19 IMPOSITION--AMOUNT--RACETRACK GAMING OPERATOR LICENSEE.--In
20 addition to all other daily racing taxes, a daily race license
21 fee of five hundred dollars (\$500) is imposed on a racetrack
22 gaming operator licensee for each day of live racing conducted
23 on the racing grounds of the racetrack gaming operator
24 licensee."

25 Section 30. A new section of the Gaming Control Act,
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underscoring material = new
[bracketed material] = delete

1 Section 60-2E-47.5 NMSA 1978, is enacted to read:

2 "60-2E-47.5. [NEW MATERIAL] PAYMENT OF FEES AND TAXES--
3 DELINQUENT PAYMENTS--FINES AND INTEREST.--

4 A. Daily race license fees, daily pari-mutuel
5 excise taxes and daily racing taxes imposed by the Gaming
6 Control Act shall be paid to the taxation and revenue
7 department at the close of the business day on Thursday of
8 every week.

9 B. Failure to make weekly remittances by the
10 licensee shall result in an assessment by the taxation and
11 revenue department against the licensee of a fine of one
12 percent per month of the amount due, computed on a daily basis.

13 C. Interest on amounts due shall be assessed by the
14 taxation and revenue department at a rate of one percent per
15 month computed on a daily basis and administered pursuant to
16 the Tax Administration Act.

17 D. Tax penalties and fines shall be distributed
18 from the racing suspense account to the current school fund
19 pursuant to Article 12, Section 4 of the constitution of New
20 Mexico."

21 Section 31. A new section of the Gaming Control Act,
22 Section 60-2E-47.6 NMSA 1978, is enacted to read:

23 "60-2E-47.6. [NEW MATERIAL] RACING SUSPENSE ACCOUNT
24 CREATED.--

25 A. The "racing suspense account" is created in the

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underscored material = new
[bracketed material] = delete

1 tax administration suspense fund. All revenue attributable to
2 the daily racing tax, the daily pari-mutuel excise tax, all
3 daily racing fees and any associated interest and penalties not
4 otherwise distributed pursuant to the provisions of the Gaming
5 Control Act shall be credited to the racing suspense account
6 and distributed pursuant to the Tax Administration Act.

7 B. The taxation and revenue department shall
8 administer the racing suspense account pursuant to the Tax
9 Administration Act.

10 C. All money in the racing suspense account shall
11 be identified as to the source of the money.

12 D. The board shall obtain information about the
13 deposits, distributions and daily balances in the racing
14 suspense account on a monthly basis and upon request of the
15 board to the taxation and revenue department."

16 Section 32. A new section of the Gaming Control Act,
17 Section 60-2E-47.7 NMSA 1978, is enacted to read:

18 "60-2E-47.7. [NEW MATERIAL] HORSEMEN'S COMMISSIONS--
19 MAXIMUM--COMMISSION DISTRIBUTION--COMMISSION FEE.--

20 A. A class A racetrack gaming operator licensee
21 shall be paid a commission of nineteen percent of the gross
22 amount wagered on win, place and show through the pari-mutuel
23 system, of which eighteen and three-fourths percent shall be
24 retained by the class A racetrack gaming operator licensee. A
25 fee in the amount of one-fourth percent on the commission

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1 retained by the class A racetrack gaming operator licensee
2 shall be remitted to the racing suspense account for deposit in
3 the general fund.

4 B. A class B racetrack gaming operator licensee
5 shall be paid a commission in an amount determined by the class
6 B racetrack gaming operator licensee of not less than eighteen
7 and three-fourths percent and not greater than twenty-five
8 percent of the gross amount wagered on win, place and show
9 through the pari-mutuel system. The commission shall be
10 retained by a class B racetrack gaming operator licensee. Each
11 class B racetrack gaming operator licensee shall advise the
12 board not less than thirty days prior to the first day of each
13 horse race meet of the percentage of commission that the
14 licensee will retain.

15 C. From the commissions, each racetrack gaming
16 operator licensee shall allocate five-eighths percent to the
17 New Mexico horse breeders' association weekly for distribution
18 pursuant to the provisions of Section 60-1-17 NMSA 1978.

19 D. In regard to exotic wagers:

20 (1) a class A racetrack gaming operator
21 licensee shall retain a commission of not less than twenty-one
22 percent and not more than twenty-five percent of the gross
23 amount wagered in exotic wagers;

24 (2) a class B racetrack gaming operator
25 licensee shall elect, with the approval of the board, to retain

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1 a commission of not less than twenty-one percent and not
2 greater than thirty percent of the gross amount wagered in
3 exotic wagers;

4 (3) each racetrack gaming operator licensee
5 shall advise the board not less than thirty days prior to the
6 first day of a race meet of the amount of commission to be
7 retained by the licensee from the gross amount wagered in
8 exotic wagers; and

9 (4) a racetrack gaming operator licensee shall
10 allocate one and three-eighths percent to the New Mexico horse
11 breeders' association weekly of redistribution pursuant to the
12 provisions of Section 60-1-17 NMSA 1978.

13 E. The odd cents of all redistributions to the
14 wagerer over the next lowest multiple of ten from the gross
15 amount wagered through the pari-mutuel system shall be retained
16 by the racetrack gaming operator licensee, with fifty percent
17 of the total of the odd cents wagered being allocated to
18 enhance the race purses of established stake races that include
19 only horses registered as New Mexico bred with the New Mexico
20 horse breeders' association, to be distributed by the New
21 Mexico horse breeders' association pursuant to Section 60-1-17
22 NMSA 1978 subject to the approval of the state racing
23 commission.

24 F. Money resulting from the failure of patrons who
25 purchased winning pari-mutuel tickets during a race meet to

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1 redeem their winning tickets before the end of the sixty-day
2 period immediately following the closing day of the race meet
3 and money resulting from the failure of patrons who purchased
4 pari-mutuel tickets that were entitled to refund but were not
5 refunded during the same sixty-day period shall be apportioned
6 as follows:

7 (1) the racetrack gaming operator licensee
8 shall retain thirty-three and thirty-three hundredths percent;

9 (2) the New Mexico horse breeders' association
10 shall receive a distribution of thirty-three and thirty-four
11 hundredths percent to enhance each horse racetrack's
12 established overnight purses for races that include only horses
13 registered as New Mexico bred with the New Mexico horse
14 breeders' association, subject to board approval, pursuant to
15 Section 60-1-17 NMSA 1978; and

16 (3) thirty-three and thirty-three hundredths
17 percent shall be allocated to horsemen's race purses.

18 G. To promote and improve the quality of horse
19 racing and simulcasting and the participation of interested
20 persons in horse racing in New Mexico, one-half percent of the
21 gross amount wagered on simulcasted horse races at each
22 licensed racetrack in New Mexico that receives simulcasted
23 horse races shall be allocated by each racetrack gaming
24 operator licensee for distribution to the New Mexico horsemen's
25 association, provided that at least one-fourth percent of the

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1 gross amount wagered on simulcasted races that is allocated to
2 the New Mexico horsemen's association is used solely for
3 medical benefits for the members of the New Mexico horsemen's
4 association, and provided further that the remaining one-fourth
5 percent of the gross amount wagered on simulcasted races that
6 is allocated to the New Mexico horsemen's association shall be
7 used to enhance purses at each licensed racetrack.

8 H. The board shall by rule provide for the timing
9 and manner of the distributions required by this section and
10 shall audit, or arrange for an independent audit of, the
11 disbursements required by this section.

12 I. Fifty percent of the net retainage of each
13 licensee shall be allocated to race purses. For purposes of
14 this section, "net retainage" of the licensee means the
15 commission retained by the licensee on all forms of wagers
16 minus:

17 (1) the daily taxes imposed on racetrack
18 gaming operator licensees pursuant to the Gaming Control Act;

19 (2) money allocated to the New Mexico horse
20 breeders' association by this section and Section 60-1-17 NMSA
21 1978;

22 (3) money allocated to the New Mexico
23 horsemen's association by this section;

24 (4) a deduction for expenses incurred to
25 engage in intrastate simulcasting pursuant to Section 60-1-25

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1 NMSA 1978; provided that:

2 (a) the deduction for each racetrack
 3 gaming operator licensee shall be a portion of five percent of
 4 the gross amount wagered at all the sites receiving the same
 5 simulcasted horse races;

6 (b) the deduction portion for each
 7 racetrack gaming operator licensee shall be an amount allocated
 8 to that licensee by agreement voluntarily reached among all of
 9 the horse racetracks sending or receiving the same simulcasted
 10 horse races; and

11 (c) the deduction portion for each
 12 racetrack gaming operator licensee shall be an amount allocated
 13 to that licensee by the state racing commission if all of the
 14 licensees sending or receiving the same simulcasted horse races
 15 fail to reach a voluntary agreement pursuant to Section
 16 60-1-25.1 NMSA 1978; and

17 (5) a deduction for fees and commissions
 18 incurred to receive interstate simulcasts.

19 J. As used in this section, "exotic wager" means a
 20 wager made on other than win, place or show through the pari-
 21 mutuel system."

22 Section 33. A new section of the Gaming Control Act is
 23 enacted to read:

24 "[NEW MATERIAL] HORSE RACING--UNLAWFUL ACTS.--
 25 Prohibitions against horse racing, bookmaking, pool selling or
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underscored material = new
 [bracketed material] = delete

1 other methods of wagering on horse races are not repealed.
2 Pari-mutuel wagering on horse races that are conducted on the
3 premises of a racetrack gaming operator licensee is the only
4 authorized method of wagering on horse races permitted in the
5 state, on Sunday or any other day."

6 Section 34. A new section of the Gaming Control Act,
7 Section 60-2E-63 NMSA 1978, is enacted to read:

8 "60-2E-63. [NEW MATERIAL] PENALTY.--If a person directly
9 or indirectly uses a pari-mutuel system of wagering except when
10 licensed as a racetrack gaming operator licensee by the board
11 and pursuant to the provisions of the Gaming Control Act and
12 the Horse Racing Act, the person is guilty of a misdemeanor and
13 upon conviction shall be fined an amount not to exceed five
14 thousand dollars (\$5,000) or sentenced to imprisonment for not
15 more than ninety days or sentenced with both a fine and
16 imprisonment. An officer of a corporation or company violating
17 a provision of the Gaming Control Act pertaining to horse
18 racing shall be deemed personally responsible and subject to
19 the penalties imposed pursuant to this section."

20 Section 35. A new section of the Tax Administration Act
21 is enacted to read:

22 "[NEW MATERIAL] DISTRIBUTIONS--DAILY HORSE RACING TAXES--
23 MUNICIPAL SHARES.--The following distributions shall be made
24 pursuant to the provisions of Section 7-1-6.1 NMSA 1978 from
25 the following amounts transferred to the department from the

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1 racing suspense account:

2 A. one hundred fifty dollars (\$150) of the daily
3 pari-mutuel excise tax imposed by Section 60-2E-47.1 NMSA 1978
4 remitted by a class A racetrack gaming operator licensee shall
5 be distributed to the treasury of the municipality in which the
6 class A racetrack gaming operator licensee's horse racetrack is
7 located if the class A racetrack gaming operator licensee's
8 racetrack is located in an incorporated municipality with a
9 population according to the 1990 federal decennial census that
10 is either:

11 (1) less than six thousand persons if located
12 in a county with a population of more than ten thousand but
13 less than fifteen thousand persons; or

14 (2) more than eight thousand persons but less
15 than ten thousand persons if located in a county with a
16 population of more than one hundred thousand persons but less
17 than one hundred fifty thousand persons; and

18 B. the balance of the daily racing tax imposed by
19 Section 60-2E-47.2 NMSA 1978 after deductions pursuant to
20 Subsection B of that section are taken shall be distributed to
21 the treasury of a municipality in which a horse racetrack is
22 located that is eligible for distributions pursuant to Section
23 60-2E-47.3 NMSA 1978."

24 Section 36. A new section of the Tax Administration Act
25 is enacted to read:

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1 "[NEW MATERIAL] RACING SUSPENSE ACCOUNT--GAMING CONTROL
2 BOARD ACCESS TO INFORMATION.--The department shall provide the
3 gaming control board with monthly reports on the deposits,
4 balances, refunds and transfers from the racing suspense
5 account and shall provide additional information about the
6 account upon request by the gaming control board. Information
7 about the account may be disclosed fully to the gaming control
8 board, including deposits attributed to specific horse
9 racetracks."

10 Section 37. Section 10-15-1 NMSA 1978 (being Laws 1974,
11 Chapter 91, Section 1, as amended) is amended to read:

12 "10-15-1. FORMATION OF PUBLIC POLICY--PROCEDURES FOR
13 OPEN MEETINGS--EXCEPTIONS AND PROCEDURES FOR CLOSED
14 MEETINGS.--

15 A. In recognition of the fact that a representative
16 government is dependent upon an informed electorate, it is
17 declared to be public policy of this state that all persons are
18 entitled to the greatest possible information regarding the
19 affairs of government and the official acts of those officers
20 and employees who represent them. The formation of public
21 policy or the conduct of business by vote shall not be
22 conducted in closed meeting. All meetings of any public body
23 except the legislature and the courts shall be public meetings,
24 and all persons so desiring shall be permitted to attend and
25 listen to the deliberations and proceedings. Reasonable

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1 efforts shall be made to accommodate the use of audio and video
2 recording devices.

3 B. All meetings of a quorum of members of any
4 board, commission, administrative adjudicatory body or other
5 policymaking body of any state agency, any agency or authority
6 of any county, municipality, district or ~~[any]~~ political
7 subdivision, held for the purpose of formulating public policy,
8 including the development of personnel policy, rules,
9 regulations or ordinances, discussing public business or ~~[for~~
10 ~~the purpose of]~~ taking any action within the authority of or
11 the delegated authority of any board, commission or other
12 policymaking body are declared to be public meetings open to
13 the public at all times, except as otherwise provided in the
14 constitution of New Mexico or the Open Meetings Act. No public
15 meeting once convened that is otherwise required to be open
16 pursuant to the Open Meetings Act shall be closed or dissolved
17 into small groups or committees for the purpose of permitting
18 the closing of the meeting.

19 C. If otherwise allowed by law or rule of the
20 public body, a member of a public body may participate in a
21 meeting of the public body by means of a conference telephone
22 or other similar communications equipment when it is otherwise
23 difficult or impossible for the member to attend the meeting in
24 person, provided that each member participating by conference
25 telephone can be identified when speaking, all participants are

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1 able to hear each other at the same time and members of the
2 public attending the meeting are able to hear any member of the
3 public body who speaks during the meeting.

4 D. Any meetings at which the discussion or adoption
5 of any proposed resolution, rule, regulation or formal action
6 occurs and at which a majority or quorum of the body is in
7 attendance, and any closed meetings, shall be held only after
8 reasonable notice to the public. The affected body shall
9 determine at least annually in a public meeting what notice for
10 a public meeting is reasonable when applied to that body. That
11 notice shall include broadcast stations licensed by the federal
12 communications commission and newspapers of general circulation
13 that have provided a written request for such notice.

14 E. A public body may recess and reconvene a meeting
15 to a day subsequent to that stated in the meeting notice if,
16 prior to recessing, the public body specifies the date, time
17 and place for continuation of the meeting and, immediately
18 following the recessed meeting, posts notice of the date, time
19 and place for the reconvened meeting on or near the door of the
20 place where the original meeting was held and in at least one
21 other location appropriate to provide public notice of the
22 continuation of the meeting. Only matters appearing on the
23 agenda of the original meeting may be discussed at the
24 reconvened meeting.

25 F. Meeting notices shall include an agenda

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1 containing a list of specific items of business to be discussed
2 or transacted at the meeting or information on how the public
3 may obtain a copy of such an agenda. Except in the case of an
4 emergency, the agenda shall be available to the public at least
5 twenty-four hours prior to the meeting. Except for emergency
6 matters, a public body shall take action only on items
7 appearing on the agenda. For purposes of this subsection, [~~an~~]
8 "emergency" refers to unforeseen circumstances that, if not
9 addressed immediately by the public body, will likely result in
10 injury or damage to persons or property or substantial
11 financial loss to the public body.

12 G. The board, commission or other policymaking body
13 shall keep written minutes of all its meetings. The minutes
14 shall include at a minimum the date, time and place of the
15 meeting, the names of members in attendance and those absent,
16 the substance of the proposals considered and a record of any
17 decisions and votes taken that show how each member voted. All
18 minutes are open to public inspection. Draft minutes shall be
19 prepared within ten working days after the meeting and shall be
20 approved, amended or disapproved at the next meeting where a
21 quorum is present. Minutes shall not become official until
22 approved by the policymaking body.

23 H. The provisions of Subsections A, B and G of this
24 section do not apply to:

25 (1) meetings pertaining to issuance,

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1 suspension, renewal or revocation of a license, except that a
2 hearing at which evidence is offered or rebutted shall be open.
3 All final actions on the issuance, suspension, renewal or
4 revocation of a license shall be taken at an open meeting;

5 (2) limited personnel matters; provided that
6 for purposes of the Open Meetings Act, "limited personnel
7 matters" means the discussion of hiring, promotion, demotion,
8 dismissal, assignment or resignation of or the investigation or
9 consideration of complaints or charges against any individual
10 public employee; provided further that this ~~[subsection]~~
11 paragraph is not to be construed as to exempt final actions on
12 personnel from being taken at open public meetings, nor does it
13 preclude an aggrieved public employee from demanding a public
14 hearing. Judicial candidates interviewed by any commission
15 shall have the right to demand an open interview;

16 (3) deliberations by a public body in
17 connection with an administrative adjudicatory proceeding. For
18 purposes of this paragraph, ~~[an]~~ "administrative adjudicatory
19 proceeding" means a proceeding brought by or against a person
20 before a public body in which individual legal rights, duties
21 or privileges are required by law to be determined by the
22 public body after an opportunity for a trial-type hearing.
23 Except as otherwise provided in this section, the actual
24 administrative adjudicatory proceeding at which evidence is
25 offered or rebutted and any final action taken as a result of

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1 the proceeding shall occur in an open meeting;

2 (4) the discussion of personally identifiable
3 information about any individual student, unless the student,
4 [~~his~~] the student's parent or guardian requests otherwise;

5 (5) meetings for the discussion of bargaining
6 strategy preliminary to collective bargaining negotiations
7 between the policymaking body and a bargaining unit
8 representing the employees of that policymaking body and
9 collective bargaining sessions at which the policymaking body
10 and the representatives of the collective bargaining unit are
11 present;

12 (6) that portion of meetings at which a
13 decision is made concerning purchases in an amount exceeding
14 two thousand five hundred dollars (\$2,500) that can be made
15 only from one source and that portion of meetings at which the
16 contents of competitive sealed proposals solicited pursuant to
17 the Procurement Code are discussed during the contract
18 negotiation process. The actual approval of purchase of the
19 item or final action regarding the selection of a contractor
20 shall be made in an open meeting;

21 (7) meetings subject to the attorney-client
22 privilege pertaining to threatened or pending litigation in
23 which the public body is or may become a participant;

24 (8) meetings for the discussion of the
25 purchase, acquisition or disposal of real property or water

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1 rights by the public body;

2 (9) those portions of meetings of committees
3 or boards of public hospitals where strategic and long-range
4 business plans or trade secrets are discussed; ~~and~~

5 (10) that portion of a meeting of the gaming
6 control board dealing with information made confidential
7 pursuant to the provisions of the Gaming Control Act; and

8 (11) that portion of a meeting of the state
9 racing commission in which confidential information, documents
10 or communications obtained from the gaming control board are
11 reviewed or discussed.

12 I. If any meeting is closed pursuant to the
13 exclusions contained in Subsection H of this section [~~the~~
14 ~~closure~~]:

15 (1) the closure, if made in an open meeting,
16 shall be approved by a majority vote of a quorum of the
17 policymaking body; the authority for the closure and the
18 subject to be discussed shall be stated with reasonable
19 specificity in the motion calling for the vote on a closed
20 meeting; the vote shall be taken in an open meeting; and the
21 vote of each individual member shall be recorded in the
22 minutes. Only those subjects announced or voted upon prior to
23 closure by the policymaking body may be discussed in a closed
24 meeting; and

25 (2) the meeting, if a closure is called for

1 when the policymaking body is not in an open meeting, shall not
2 be held until public notice, appropriate under the
3 circumstances, stating the specific provision of the law
4 authorizing the closed meeting and stating with reasonable
5 specificity the subject to be discussed is given to the members
6 and to the general public.

7 J. Following completion of any closed meeting, the
8 minutes of the open meeting that was closed or the minutes of
9 the next open meeting if the closed meeting was separately
10 scheduled shall state that the matters discussed in the closed
11 meeting were limited only to those specified in the motion for
12 closure or in the notice of the separate closed meeting. This
13 statement shall be approved by the public body under Subsection
14 G of this section as part of the minutes."

15 Section 38. REPEAL.--Sections 60-1-2, 60-1-6 through
16 60-1-10, 60-1-14, 60-1-15, 60-1-15.2 through 60-1-16, 60-1-18,
17 60-1-19 and 60-1-24 NMSA 1978 (being Laws 1977, Chapter 245,
18 Section 123, Laws 1973, Chapter 323, Section 4, Laws 1991,
19 Chapter 7, Section 1, Laws 1933, Chapter 55, Sections 3 through
20 6, 8 and 9, Laws 1992, Chapter 110, Section 2, Laws 1993,
21 Chapter 300, Section 1, Laws 1933, Chapter 55, Section 10, Laws
22 1965, Chapter 270, Section 1, Laws 1933, Chapter 55, Section 11
23 and Laws 1973, Chapter 323, Section 11, as amended) are
24 repealed.

25 Section 39. EFFECTIVE DATE.--The effective date of the
.162253.4

1 provisions of this act is July 1, 2006.

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